Doc Type: EA-Admin Record
Index Field: FONSI
Project Name: US Coal Co. Deep Mine No. 10
Project No: 2002-35

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

U.S. COAL COMPANY
DEEP MINE NO. 10
CAMPBELL AND SCOTT COUNTIES, TENNESSEE

Background

In November 2001, U.S. Coal, Inc. submitted an application to the Office of Surface Mining Reclamation and Enforcement (OSM) for underground mining and reclamation affecting TVA coal in the Koppers Coal Reserves. Deep Mine No. 10 is located approximately 2.1 miles northwest of the town of Caryville and Cove Lake State Park in Campbell County, Tennessee. The company will use conventional underground deep mine techniques to mine approximately 436 acres of Pewee and Pewee Rider coal over a period of five years, anticipating the recovery of 1.25 million tons of coal. In addition, approximately 8 miles (67 acres) of an existing road will be upgraded to a haul road. The mine site is in the Clinch River watershed at approximately the 2480 ft. elevation and is drained locally by Adkins Branch, a tributary of Cove Creek. The haul road is primarily in the Montgomery Fork watershed in the New River basin. The disturbed areas within the proposed permit area, with the exception of the haul road and the sediment basin, will be reclaimed using all reasonably available spoil.

Under the terms of TVA's coal lease, the company shall not initiate or conduct any mining activity under a proposed general mining plan prior to receiving TVA's written approval, and shall not commence any mining activity until satisfactory completion of an environmental review. This NEPA review completes the environmental review required by TVA's coal lease.

The application was publicly announced in March 2002. Comments were received from two agencies and one public interest group. In addition, interagency consultations were undertaken with the State Historic Preservation Officer, U.S. Fish and Wildlife Service (FWS), Tennessee Department of Environment and Conservation (TDEC), and Tennessee Wildlife Resources Agency (TWRA), the surface owner of the proposed 70.08 acre mine and haul road site. After considering and resolving all comments, OSM subsequently completed an Environmental Assessment (EA) and FONSI, including two Cumulative Hydrologic Impact Assessments, on June 6, 2002.

Alternatives

OSM considered three alternatives. Under Alternative 1, OSM would issue a permit to U.S. Coal for underground mining at the site of a former strip mine. The mine is expected to have an average annual production of approximately 250,000 tons and life-of-mine production of approximately 1,250,000 tons. The company will use bulldozers, front-end loaders, and trucks for mining and reclamation operations within the proposed 70.08 permit area over a period of five years. The entire area would be disturbed during these five years.

U.S. Coal proposes to mine approximately 436 acres of Pewee and Pewee Rider coal seams by conventional underground methods. Both the underground mine face-up and load out areas are located on previously mined benches. The temporary storage area will be located on the same bench as the face-up area. The storage area will be used to

store material removed to construct drainage control facilities and face-up/load out areas, and mine development waste. Excess underground development waste will be disposed of at U.S. Coal's Jordan Ridge Refuse Area (OSM No. 2788). Blasting is not proposed.

In addition, approximately 7.86 miles (66.7 acres) of an existing road will be upgraded to a haul road—including regrading and improving the road surface, widening the road if needed, and installing drainage and sediment control structures—and is included in the permit. .The road originally provided access to the Pewee mine bench level. Because it crosses the Cumberland Trail State Park, U.S. Coal, Inc requested a determination of Valid Existing Rights (VER) for the haul road, in accordance with 30 CFR 942.761.16. To establish VER, U.S. Coal, Inc had to show that the road existed when the park was established and that the company has a legal right to use the road. OSM issued a determination that U.S Coal, Inc. has demonstrated VER on July 8, 2002 (see letter attached July 8, 2002 letter from OSM).

The disturbed areas within the proposed permit area, with the exception of the haul road and the sediment basin, will be reclaimed using all reasonably available spoil. During reclamation, the exposed coal seam will be covered with a minimum of 4 ft. of spoil materials. After the backfilled areas are final graded, topsoil substitute materials will be revegetated with a seed mixture capable of producing a permanent ground cover. The haul road is a permanent structure and will remain as it is constructed. The buildings and portable structures will be removed.

Under Alternative 2, OSM would disapprove the permit application. The no action alternative (Alternative 3) was considered, but not evaluated, because the Federal Program for Tennessee requires that OSM approve or disapprove a permit application for surface coal mining reclamation operations.

Impacts Assessed

During mining there would be temporary changes to topography, land use, wildlife habitat, air quality, noise and aesthetics as a result of mining activity. Wildlife habitat will be eliminated within the mine face-up portion of the proposed permit area (approximately 3 acres), resulting in displacement of the more mobile species. However, site reclamation, including establishment of the grass-legume herbaceous ground cover and shrubs and retention of the sediment basin will result in enhanced wildlife habitat, providing opportunity for the displaced species to reinhabit the area as well as new species. Little change is anticipated on the 67 acres of haul road, since little or no additional disturbance to existing vegetation/habitat will occur. A fugitive dust control plan is expected to minimize impacts to air quality anticipated to occur during the 5 years of mining activity. Fugitive dust will result primarily from the expected 25 coal truck round trips per workday. Three to five residential structures are located along the unpaved access road, and none along the haul road.

In a February 28 letter to OSM regarding their review of the mine proposal, the FWS commented that the Indiana bat may be affected by the mining activity. Based on additional information about existing habitat conditions at the subject site provided by U.S. Coal, Inc. (see attached e-mail from OSM to FWS, May 15, 2002), FWS agreed that the mining operation as proposed is not likely to adversely affect this species (see attached letter from the US Fish and Wildlife Service to OSM, June 7, 2002). Therefore,

no adverse effects on endangered or threatened species are expected. Potential impacts to aquatic habitat will be mitigated by appropriate sediment control measures. Due to its remote location and existing conditions as a former strip mine, the proposed mine and reclamation activities will have little if any aesthetic impacts on the surrounding communities. Increased background noise in the vicinity of the mine will have little impact on the public, but noise associated with haulage of coal will increase during daylight hours, with the exception of Sundays, for the life of the mine. The State Historic Preservation Officer has concurred that the proposed mining operation will have no effect on cultural, historic, or archeological resources (see attached March 26, 2002 letter).

Some permanent or long term changes will occur during mining and reclamation, including 1) additional alternation of the geologic strata, 2) increased infiltration rates through the backfilled material, 3) permanent retention of a sediment basin, and 4) postmining vegetative cover. Implementation of the hydrologic reclamation plan (HRP) is predicted to prevent or minimize the long-term adverse effects that may occur from the permanent changes. Geologic sampling and overburden analyses by U.S. Coal did not identify a potential for the formation of acid or toxic drainage from geologic materials above or below the Pewee seam. However, since the coal seam was identified as a potential source of acid production, all waste materials associated with the coal will be disposed of at U.S. Coal's permitted preparation plant and refuse area.

Cumulative Hydrologic Impact Assessments (CHIAs) were prepared for the two subwatershed to be impacted--Montgomery Fork (TS-4) and Cove Creek (TS-3). Study results show that the anticipated increases in pollutant concentrations are well within the U. S. EPA water use criteria for the identified uses classifications. The CHIAs concluded that the water quality of the receiving stream would not be significantly affected by the proposed mining and reclamation operations. Flow analysis indicates that no appreciable difference in stream flow rates are anticipated; therefore, no significant alteration in in-stream flow characteristics are anticipated. No mining related impacts to local ground water or to any developed aquifer present in the alluvial valley floor are anticipated.

In sum, only minor impacts are anticipated as a result of the proposed issuance of this permit. These impacts would be mitigated by the implementation of the mining and reclamation plan, which includes the Hydrological Reclamation Plan.

If the permit were denied (Alternative 2), recovery of the coal would not occur. The area would continue to be managed as part of the Royal Blue Wildlife Management Area by the surface owner, Tennessee Wildlife Resources Agency, under a land management plan.

TVA Review

TVA participated as a cooperating agency in the preparation of the U.S. Coal Company Deep Mine No. 10 EA (attached as part of the Decision Document for U.S. Coal, Inc, Deep Mine No. 10, June 14, 2002). TVA staff reviewed and commented on the initial permit application as well as the preliminary draft EA. For cumulative effects analysis, TVA reviewed the two CHIAs prepared for watersheds affected by this project. In addition, in 1990, TVA reviewed and adopted an OSM Final Environmental Impact Statement, Comprehensive Impacts of Permit Decisions Under the Tennessee Federal

Program. In its notice of adoption (55 Federal Register 23338, June 7, 1990), TVA determined that the OSM FEIS adequately assessed the potential cumulative environmental impacts of coal leasing decisions that TVA may make respecting its coal properties in Tennessee, and that the proposed actions evaluated were substantially the same as those which may occur under TVA's coal leasing program. The 1990 FEIS, together with the two CHIAs, adequately assess the cumulative effects of past, present, and reasonably foreseeable future actions on resources affected by the Deep Mine No. 10 proposal.

Conclusion and Finding

TVA has reviewed the OSM EA and determined that the scope, alternatives considered, and content of the EA are adequate. Based on its independent review, TVA has decided to adopt the June 14, 2002 OSM EA (including the two CHIAs). It is attached and incorporated by reference.

After review of the EA, we agree that the proposed mining of TVA coal by U.S. Coal, Inc. would not have a significant impact on the quality of the environment. Accordingly, an environmental impact statement is not required.

Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning

August 8, 2002
Date

Attachments

Decision Document for U.S. Coal, Inc, Deep Mine No. 10, Campbell County, Tennessee, OSM Application No. TN-013, June 14, 2002, including the SMCRA Permit, the Findings, two Cumulative Hydrologic Impact Assessments and NEPA Compliance documents.

Letter dated February 28, 2002, from Lee A. Barclay to Mary Angelyn Holmes asking for consideration to presence of the Indiana bat, and potential stream impacts. One hundred foot stream buffer zone and silt control basins were recommended.

Letter dated March 26, 2002, from Herbert L. Harper (TN SHPO) to George Adams (A&L Engineering) stating that no NRHP listed or eligible properties would be affected by the proposed project.

Letter dated April 18, 2002, from Stan Stooksbury (TWRA) to A & L Surveying and Engineering with comments on the proposed mine plans.

E-mail dated May 15, 2002, from Jeff Coker (OSM) to David Pelren (FWS) concerning potential for Indiana bat habitat.

Letter dated June 3, 2002, from Beverly Brock (OSM) to Harold Draper (TVA) transmitting Public Notice of Request for Determination of Valid Existing Rights.

June 7, 2002, letter from Lee A. Barclay (FWS) to Jeff Coker (OSM) stating that the mining operation as proposed is not likely to adversely affect the Indiana Bat.

Letter dated July 8, 2002, from Beverly Brock (OSM) to Harold Draper (TVA) transmitting the Determination of Valid Existing Rights.

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
530 Gay St., S.W., Suite 500
Knoxville, TN. 37902

JUN 14 2002

Mr. William M. Bale, President
U.S. Coal, Inc.
130 Coal Street
Huntsville, Tennessee 37756

Subject: U.S. Coal, Inc.
Deep Mine No. 10
OSM Permit No. TN-013

Dear Mr. Bale:

We are pleased to present you with the subject permit and approved application to conduct surface coal mining and reclamation operations. A performance bond in the amount of $62,200.00 has been approved.

Surface mining and reclamation authorized by this permit must be accomplished in accordance with the contents of the approved application, the provisions of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87), and the regulations for the Federal Program for Tennessee. Please note the Section 13 condition that requires additional information to be submitted to the regulatory authority if a cessation order is issued. Transfer, assignment, or sale of these permit rights may not be completed without the approval of the Office of Surface Mining .

You are advised that you must also comply with NPDES permitting requirements administered and enforced by the Tennessee Department of Environment and Conservation. We were informed by Mr. Michael Robbins, Tennessee Department of Environment and Conservation, Division of Water Pollution Control, on June 10, 2002, that the pending NPDES Permit No. TN 0076180 can be approved upon successful completion of the public notice comment period.

Thirty days after permit issuance, you must pick up the application on file for public review in the Courthouse or it will be discarded. You may contact Doug Siddell at (865) 545-4103, extension 173, if you have any questions.

Sincerely,

George C. Miller, Director
Knoxville Field Office

Enclosures

cc: Mr. Billy David Altizer, P.E.
A & L Surveying and Engineering, LLC
460 North McWhorter Street
London, Kentucky 40741

TN WPC, w/enclosures
Inspection Group, w/enclosures

Mr. Harold Draper
TVA, w/enclosures

DECISION DOCUMENT

FOR

U.S. Coal, Inc.

Deep Mine No. 10

CAMPBELL COUNTY, TENNESSEE

OSM APPLICATION NO. TN-013

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OFFICE OF SURFACE MINING
TECHNICAL GROUP
KNOXVILLE FIELD OFFICE

The United States Department of the Interior
Office of Surface Mining
Under The
Federal Program For Tennessee
Hereby Grants This
Surface Coal Mining And Reclamation Permit

To The

U. S. Coal, Inc., 130 Coal Street, Huntsville, Tennessee 37756
(Company Name)

For The

Deep Mine No. 10
(Mine Name)

At

Latitude: 36° 18' 40" N. Longitude: 84° 15' 40" W.
(Location)

County Campbell
Permit No. TN-013
Permit Acreage 70.08
Effective Date June 14, 2002
Operations Type Underground
Expiration Date June 13, 2007

Conditions / Provisions:

In accordance with 30 CFR 942.761.16, this permit is conditioned to preclude any surface coal mining and reclamation operations on or within 300 feet of Cumberland Trail State Park until the Office of Surface Mining has: 1) completed its review of the applicant's request for a valid existing rights determination, 2) determined that the applicant has satisfactorily demonstrated valid existing rights, and 3) notified the applicant of said determination.

Signed Beverly Brock Date 6-14-02

Knoxville Field Office

PERMIT NO. TN-013

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING

This permit is issued for the United States of America by the Office of Surface Mining (OSM) to:

U.S. Coal, Inc.
130 Coal Street
Huntsville, Tennessee 37756

for the surface mining and reclamation operation:

Deep Mine No. 10
Campbell County, Tennessee
Latitude: 36°18'40" N. Longitude: 84°15'40" W.

This permit for a 70.08-acre area becomes effective on June 14, 2002, and expires on June 13, 2007, for a permit term of 5 years. A performance bond in the amount of $62,200.00 has been approved. The bond, made payable to the "United States or the State of Tennessee," is filed with the Knoxville Field Office of OSM.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., hereafter referred to as the Act, and the Federal Program for Tennessee (30 CFR 942). This permit is also subject to all regulations of the Secretary of the Interior that are now in force or, except as expressly limited therein, may hereafter be in force and applicable and all such regulations are made a part hereof.

Sec. 2 The permittee is authorized to conduct coal mining and reclamation operations only as described above and in detail in the approved permit application for the operation described above, subject to any conditions of the approved permit application and all other applicable laws and regulations.

Sec. 3 This permit becomes effective on the date the permit is signed, except that this permit will terminate if the permittee has not begun the coal mining and reclamation operation covered herein within 3 years of the date of permit issuance.

Sec. 4 The permit rights may not be transferred, assigned, or sold without the approval of the Regulatory Authority. Request for transfer, assignment, or sale of permit rights must be done in accordance with 30 CFR 942.774.17.

Sec. 5 The permittee shall allow the authorized representative of the Secretary, including but not limited to inspectors and fee compliance officers, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

a. Have the rights of entry provided for in 30 CFR 942.842.13; and

b. Be accompanied by private persons for the purpose of conducting an inspection in accordance with 30 CFR 942.842.12 when the inspection is in response to an alleged violation reported by the private person.

Sec. 6 The permittee shall minimize any adverse impacts to the environment or public health and safety resulting from noncompliance with any term or condition of this permit, including but not limited to:

a. Accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;

b. Immediate implementation of measures necessary to comply; and

c. Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 7 The permittee shall conduct the operation in accordance with the terms of the permit to prevent significant imminent environmental harm to land, air, or water resources and adverse effects to the public health or safety.

Sec. 8 The operator shall pay all reclamation fees required by 30 CFR Chapter VII, Subchapter R, for coal produced under this permit.

Sec. 9 An application for renewal must be filed with the Regulatory Authority at least 120 days before expiration of the existing permit. Otherwise, the permit will expire at the end of the current term.

Sec. 10 If, during the course of the mining operation, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the Regulatory Authority. The Regulatory Authority, after coordination with the Tennessee State Historic Preservation Officer, shall inform the permittee of necessary actions required.

Sec. 11 The permittee shall comply with the provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Clean Air Act [42 U.S.C. 7401 et seq.].

Sec. 12 The permittee shall comply with the terms and conditions of the permit, all applicable performance standards of the Act, and the requirements of the Federal Program for Tennessee.

Sec. 13 If a cessation order is issued under 30 CFR 942.843.11 for the operation conducted under this permit, the permittee shall submit to the Regulatory Authority all changes needed to update the information requirements of 942.778.11(c), current to the date the cessation order was issued.

(1) This information must be provided, in writing, to the Regulatory Authority within 30 days after the cessation order is issued.

(2) If a stay of the cessation order is granted and remains in effect, this requirement is nullified.

(3) If there has been no change in the information submitted under 942.778.11(c), the permittee must submit a written statement to that effect.

(4) These regulations apply to the Tennessee Federal Program or the State equivalent.

Sec. 14 This permit will be suspended and/or revoked if the permittee fails to resolve to the satisfaction of OSM any nonrespondent quarters reportable on OSM-1 or OSM-1A (Coal Production and Reclamation Fee Report) due prior to permit issuance and/or to pay all monies found to be due and owing for those nonrespondent quarters for the permittee or any operations owned or controlled by the permittee or any operations owned or controlled by the owners or controllers of the permittee.

Sec. 15 The permittee shall provide a copy of 30 CFR Subchapter P, Part 865 (Protection of Employees), to all current employees and to all new employees at the time of their hiring, as required by 30 CFR 865.11(b).

Sec. 16 Waiver(s) - In accordance with 30 CFR 942.784.22(d), the permittee has been granted a wavier of the requirements for testing the engineering properties of clays or soft rock in the roof and floor strata and the requirements to conduct chemical analysis of coal-bearing strata and coal.

Sec. 17 Special Conditions:

a. In accordance with 30 CFR 942.761.16, this permit is conditioned to preclude any surface coal mining and reclamation operations on or within 300 feet of Cumberland Trail State Park until the Office of Surface Mining has: 1) completed its review of the applicant's request for a valid existing rights determination, 2) determined that the applicant has satisfactorily demonstrated valid existing rights, and 3) notified the applicant of said determination.

Sec. 18 Provisions: None

Sec. 19 Appeals - The permittee shall have the right to appeal:

a. Under 30 CFR 942.775, any actions or decisions of any official of OSM, within 30 days, by contacting the U.S. Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203; or

b. Under applicable regulations, any action or decision of any other official of the Department of the Interior arising in connection with this permit.

THE UNITED STATES OF AMERICA

By: Beverly Brock

Beverly Brock, Supervisor
Technical Group
Knoxville Field Office

6-14-02
Date

FINDINGS

U.S. Coal, Inc.
Deep Mine No. 10
OSM Permit No. TN-013

U.S. Coal's proposed Deep Mine No. 10 is located approximately 2.1 miles northwest of the town of Caryville and Cove Lake State Park in Campbell County, Tennessee. The mine site is in the Clinch River watershed at approximately the 2480 ft. elevation and is drained locally by Adkins Branch, a tributary of Cove Creek. The vast majority of the permitted haul road is in the Montgomery Fork watershed in the New River basin. U.S. Coal is proposing to disturb the entire 70.08-acre permit area during the 5-year life of the operation and anticipates recovering 1,250,000 tons of coal. The approved postmining land use will be undeveloped with a secondary use of fish and wildlife habitat as was the premining land use.

The Office of Surface Mining (OSM) has reviewed and analyzed the application, incorporated documents, public and interagency comments, and the environmental assessment. This document summarizes the basis upon which OSM makes the findings required under 30 CFR 942.773.14 and 773.15 prior to the approval of any application submitted under the Federal Program for Tennessee, analyzes information from the application, addresses issues as needed to provide a brief background for OSM's findings, and presents the findings.

The public comment period for this site began March 14, 2002, and ended May 4, 2002. One comment was received prior to initiation of the comment period and one comment was received during the comment period.

1. The 510(c) Compliance Findings, dated June 14, 2002, indicated that no surface coal mining and reclamation operation owned or controlled by the applicant is in violation of the Surface Mining Control and Reclamation Act of 1977 (the Act); or in violation of any other Federal law, rule, or regulation; or any State law, rule, or regulation pertaining to air or water environmental protection. The Applicant/Violator System's (AVS's) recommendation on June 14, 2002, was to issue the permit. [Permit Item No. 10a-12]

2. The 510(c) Compliance Findings, dated June 14, 2002, indicated that the applicant neither controls nor has controlled mining operations with a demonstrated pattern of willful violations of the Act. [Permit Item No. 13-15]

3. The application was submitted to OSM on November 13, 2001, and has been reviewed by a team of OSM specialists trained in the disciplines of engineering, geology, hydrology, biology, and reclamation. The application was determined administratively complete on January 22, 2002. Technical deficiencies were

identified through a comprehensive technical review.

A site visit was conducted on February 5, 2002. Present during the site visit were representatives of the applicant, the applicant's consultant, the Tennessee Division of Water Pollution Control, the surface owner, and OSM. A follow-up site visit was conducted on April 10, 2002 with representatives of the applicant and OSM in attendance.

Dates of letters citing deficiencies in the proposed operation and reclamation plan and dates responses were received for the respective deficiency letters are listed in Table 1.

TABLE 1
Dates of Technical Review Deficiency Letters and Responses

Technical Review No.	Date OSM Sent Deficiency Letter	Date OSM Received Response From Applicant
1	2/14/02	3/25/02
2	4/18/02	5/7/02
3	5/23/02	5/24/02
4	5/30/02	5/31/02

Additional information was also submitted as a supplement to the above deficiency responses on May 28, 2002. Since the application has been modified to address all deficiencies, OSM determined the application to be complete and accurate on June 3, 2002. The applicant has complied with all the requirements of the Act and the Federal Program for Tennessee (30 CFR Part 942). [Entire Application]

4. Over the 5-year anticipated life of this mining and reclamation operation, approximately 70.08 acres will be subject to surface disturbance. Surface disturbance will result from mining, improvement of roads, pond construction, spoil / topsoil substitute storage, and disposal of underground mine development waste. Backfilling, grading, and revegetation operations will employ acceptable engineering, hydrologic, and agronomic practices, and will be completed in accordance with regulatory performance standards. Measures have been included to control sediment. The proposed postmining land use is undeveloped with a secondary use of fish and wildlife habitat. OSM has found that the applicant has demonstrated that reclamation as required by the Act and the Federal Program can be accomplished under the approved reclamation plan. [Entire Application]

5. The Deputy State Historic Preservation Officer stated in a letter dated March 26, 2002, that the proposed operation will have no effect on cultural, historic, or archeological resources. OSM has confirmed that the permit area is:

(a) Not on any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System including designated study rivers, or National Recreation Areas; [Permit Item No. 24B(1-6)]

(b) Not on any Federal lands within the boundaries of any national forest; [Permit Item No. 24B(7)]

(c) Not on any lands where mining will adversely affect any publicly-owned parks or any places included in the National Register of Historic Places; [Permit Item No. 24B(12)]

(d) Not within 300 feet of any public building, school, church, community or institutional building. The permit area is within 300 feet of a public park (Cumberland Trail State Park). The permittee has requested that OSM make a "valid existing rights" determination for those portions of the permit area within 300 feet of the park. OSM has conditioned the permit application to preclude conducting any surface coal mining operations within 300 feet of this park until the issue of valid existing rights is resolved (see Section 17 of the approved permit). [24B(10)]

(e) Not within 100 feet of a cemetery; [Permit Item No. 24B(11)]

(f) Not within an area designated unsuitable for surface coal mining operations; [Permit Item No. 24A]

(g) Not within an area under study for designating lands unsuitable for surface coal mining operations; [Permit Item No. 24A]

(h) Not within 100 feet of the outside right-of-way of a public road [Permit Item No. 24B(8) and C(1)];

(i) Not within 300 feet of an occupied dwelling [Permit Item No. 24B(9) and C(2)]; and

(j) Within 100 feet of a perennial or intermittent stream. In accordance with 30 CFR, Section 816.57(a), OSM finds that the proposed surface mining activities will not cause or contribute to the violation of applicable State or

Federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream. No stream channel diversion is proposed in association with this permit. As a result, OSM authorizes surface mining activities within 100 feet of the perennial or intermittent stream. [Permit Item No. 52D]

6. The application identifies the conveyance upon which the applicant bases its legal right to enter and begin surface coal mining and reclamation operations in the permit area. The conveyance is identified as a lease from Tennessee Valley Authority to U.S. Coal, Inc. dated December 18, 2001. The lease grants the applicant the right of ingress and egress and the right to construct the necessary support facilities for the purpose of conducting underground mining of the Pee Wee coal seam. U.S. Coal has stated that their right to mine is not the subject of any current or pending litigation. [Permit Item No. 22]

   Although private surface and mineral estates have been severed, the requirements of 30 CFR 942.778.15(b) do not apply as extraction of coal by surface mining methods is not proposed. [Permit Item No. 23]

7. On June 6, 2001, OSM completed the cumulative hydrologic impact assessments (CHIA) required by 30 CFR 942.784.14(f) of the Federal Program for Tennessee. CHIA findings and other evaluations made by OSM indicate that approval of the proposed operation will produce little or no adverse change to the prevailing hydrologic balance of the area. OSM has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area (CIA Area 8, Subarea TS-4 and CIA Area 9, Subarea TS-3). OSM predicts that the water quality of the receiving streams will remain within acceptable limits for their particular stream-use classification. [Permit Item No. 40-44]

8. Existing structures to be used by this operation include a haul road. The haul road will require some modification. OSM has determined that the proposal to permit these existing structures meets the requirements of 30 CFR 942.784.12 and 30 CFR 942.701.11(e). [Permit Item No. 51]

9. The 510(c) Compliance Findings, dated June 14, 2002, indicated that the applicant and all surface mining and reclamation operations owned or controlled by the applicant have paid all reclamation fees from previous and existing operations [30 CFR 942.773.15(c)(7)]. The AVS recommendation on June 14, 2002, was to issue the permit. [Permit Item No. 8b]

10. The requirements of 30 CFR 942.785.25 apply as the proposed operation includes plans for remining. OSM has determined that the applicant has complied with the applicable requirements of 30 CFR 942.785.25 and lands

eligible for remining are present within the proposed permit area. [Permit Item No. 70-76]

11. OSM has determined that the requirements for approval of a long-term intensive agricultural postmining land use do not apply to this operation. Prime farmland does not exist within the permit area. [Permit Item No. 33]

12. In a January 22, 2002, correspondence, OSM provided the Tennessee Department of Environment and Conservation's Division of Natural Heritage (DNH) an opportunity to comment on the proposed application and any issues or concerns they might have. The applicant also solicited comment from DNH relevant to the proposed project. Neither OSM nor the applicant received a response from DNH.

In an April 18, 2002, correspondence to the applicant, the Tennessee Wildlife Resources Agency (TWRA) expressed a number of comments and concerns related to the proposed project. These comments and concerns were not related to either state or federally listed species. In developing the proposed project, the applicant has addressed many of TWRA's concerns.

In a letter dated February 28, 2002, the U.S. Fish and Wildlife Service (FWS) indicated that their records showed Federally listed threatened or endangered species (Indiana bat) occurring within approximately 9.5 miles of the project. The FWS requested that potential impacts to the species be evaluated. In a May 15, 2002, electronic correspondence, OSM provided additional information to the FWS concerning potential impacts to the Indiana bat. In a June 7, 2002 correspondence, FWS concurred with OSM's conclusion that the operation, as proposed, should have no effect on any threatened or endangered species, or result in destruction or adverse modification of critical habitats. [Permit Item No. 34]

13. Waiver(s) - In accordance with 30 CFR 942.784.22(d), the permittee has been granted a wavier of the requirements for testing the engineering properties of clays or soft rock in the roof and floor strata and the requirements to conduct chemical analysis of coal-bearing strata and coal. Approval of these waivers are based the fact that other information having equal value or effect is available to the regulatory authority. This includes a general knowledge of the permit area and information from past mining in the vicinity of this proposed mine. [Permit Item No. 39]

14. Neither the site visit nor the application indicated the presence of private burial grounds. OSM has concluded that none would be affected. [Permit Item No. 24B(11)]

All required written findings applicable to this operation/application have been made.

By: Beverly Brook

Beverly Brook, Supervisor
Technical Group
Knoxville Field Office

6-14-02
Date

Cumulative Hydrologic Impact Assessment No. 86
Cumulative Impact Area No. 08
Subarea No. 04

Permitting Action

OSM No. TN-013
U.S. Coal, Inc.
Deep Mine No. 10
Campbell County, Tennessee

This cumulative hydrologic impact assessment (CHIA), dated June 6, 2002, meets the requirements of 30 CFR 942.784.14(f). This CHIA considers all existing and anticipated mining operations and addresses potential cumulative hydrologic impacts in CIA Area 08, Subarea No. 04.

Existing and Anticipated Mining Operations Considered in this CHIA

Permit No.	Permit Name	Mine Type	Permitted Acres	Disturbed Acres
TN-013	U.S. Coal, Inc.	Underground	70.1	70.1

U.S. Coal, Inc.'s (U.S. Coal) proposed operation is located in two watersheds, draining both to Montgomery Fork and Cove Creek. A total of 70.1 acres will be permitted for underground mining and a haul road. About 11.2 acres (deep mine face up/load out areas and a portion of the haul road) drain to Adkins Branch which drains to Cove Creek. The remaining 58.9 acres (all haul road) drain to several tributaries which drain to Montgomery Fork. Montgomery Fork flows into New River of the Cumberland River, and Cove Creek flows into the Clinch River. Potential impacts to the Cove Creek watershed are evaluated at Cumulative Impact Area No. 09, Subarea No. 03, in CHIA No. 21. Potential impacts to the Montgomery Fork watershed are considered in this CHIA.

Operation Plan

U.S. Coal proposes to mine approximately 436 acres of the Pewee and Pewee Rider coal seams by conventional underground methods. In addition, approximately 7.86 miles of an existing road will be upgraded to a haul road and included in the proposed permit.

The majority of the haul road (about 58.9 acres) lies in the Montgomery Fork watershed. The operation plan for that portion of the proposed permit area is described in this CHIA. The operation plan for the remainder of the U.S. Coal operation is described in CHIA No. 21, for Cumulative Impact Area 09, Subarea No. 03.

Approximately 58.9 of 66.7 acres of haul road is located along an existing strip bench or on an existing road on both the Pewee and Red Ash levels. Disturbance will be limited to regrading and improving the road surface, widening the road if needed, and installing drainage and sediment control structures. The haul road is a permanent structure and will remain as it is constructed. The haul road extends from U.S. Coal's Haul Road No. 1 permit (OSM No. 2917) around the north slope of Massengale Mountain and Big Bruce Ridge, through Wheeler Gap, and to the underground mine face up and load out areas under this permit. The underground mine area is located on previously mined benches of the Pewee and Red Ash coal seams.

PHC and HRP Review

The major hydrologic concerns in the Subarea No. 04, or TS-04, watershed include the sediment contributions to surface runoff and acid/toxic drainage from the haul road.

The applicant has demonstrated that the proposed operation has been designed to minimize hydrologic impacts through implementation of the mining operation and hydrologic reclamation plans. These plans demonstrate that the various sediment control structures will reduce contributions of suspended solids to the receiving streams. The haul road in this watershed is existing. The road will be upgraded using the best technology currently available to control erosion. This includes sediment control such as silt fencing, hay bales or windrowing, for example. Disturbance will be limited to regrading the road surface and installing drainage and sediment control structures. Excavations to reconstruct the road will be shallow (about 1.5 feet) and most likely will expose weathered materials. Any potential acid/toxic materials encountered will be disposed of at U.S. Coal's Jordan Ridge Refuse Area. Existing slide and slump areas near the proposed haul road location will not be disturbed by reconstruction activities. During active operations, surface drainage from the haul road will be directed through several drainage ditches, existing ponded areas, and several culverts before leaving the permit area and entering the receiving streams. Roads will be sloped to the up-hill ditch line and be graded with a 1 to 2 degree slope. This allows the ditches to be more functional to decrease the likelihood of off-site impacts. Several sumps will be constructed at some of the culvert inflow points to control flow and contain most of the sediment run off. The sumps will be cleaned out when 50% capacity is reached during active coal haulage and will remain as permanent structures. The upper road surface will be covered with durable rock in the 1-inch to 3-inch size range to also minimize additional contributions of suspended solids to the run off. Road culverts will be installed with rock headways to prevent wash out and erosion and thus, additional contributions of suspended solids to the receiving streams. The road will be maintained by grading and resurfacing as necessary.

Chemical analyses of the strata to be disturbed indicate that the coal is the only potentially acid/toxic material in the proposed permit area. Once mined, the coal will be temporarily stockpiled at the load out area of the underground mine. The coal will be removed from the site as quickly as possible. The Pewee coal seam has been mined for several years in the adjacent areas. Historically, acid/toxic drainage has not been associated with these sites. Discharge monitoring reports from adjacent area mines (included in the application) support this. The pH ranges from 6.8 to 8.3; total iron ranges from 0.10 to 1.85 mg/l (milligrams per liter); and total

manganese ranges from 0.08 to 0.35 mg/l. Sump clean-out materials if acid/toxic and any coal spillage on the haul road will be removed from the site and disposed of at U.S. Coal's Jordan Ridge Refuse Area.

Surface Water

Four surface-water sites (three in the TS-03 watershed, Cove Creek; one in this watershed, Montgomery Fork) were monitored to document seasonal baseline conditions. The data from Montgomery Fork indicate the water quality is reasonably good, but shows impact from coal mining activities based on the moderate concentrations of sulfate (up to 67 milligrams per liter (mg/l)). The water consistently tested with a near neutral pH (6.8 - 6.9) and with total iron and total manganese concentrations less than 0.3 mg/l under seasonal flow conditions.

Data from CIA 08, Trend Station TS-04, were also evaluated in this CHIA. TS-04 is located on Montgomery Fork just above its confluence with New River. TS-04 drains an area of approximately 22.1 square miles designated as Subarea No. 04. Flow from the western end of the haul road in the proposed permit area will potentially enter Greens Branch that drains to Montgomery Fork about 5.3 miles upstream from TS-04.

Water Use - The State of Tennessee surface-water use classifications for New River and its major tributaries (including Montgomery Fork) include fish and aquatic life, recreation, irrigation, and livestock watering and wildlife. There are no known surface-water users downstream from the proposed site.

Water Chemistry - Table 1 indicates that for all flow conditions, under a "worst-case" situation, the pH values are expected to remain the same as a cumulative result of present and anticipated mining operations. All anticipated pH values are within acceptable limits for domestic water supplies and freshwater aquatic life (Environmental Protection Agency, 1976).

Table 1 - Impact on pH at TS-04 at different flow conditions.

	LOW FLOW	MEAN ANNUAL	HIGH FLOW
Prevailing	7.0	7.1	6.1
Anticipated	7.0	7.1	6.1

Table 2 shows a comparison of concentrations for total dissolved solids, dissolved iron, and dissolved manganese for prevailing and anticipated hydrologic conditions at TS-04. Under "worst-case" conditions, for all flow conditions, with one exception, the issuance of this permit in conjunction with other operations in Subarea No. 04 will result in no increase or a slight increase in the total dissolved solids, dissolved iron, and dissolved manganese concentrations. The anticipated concentrations are within the U.S. Environmental Protection Agency standards. The exception is the concentration of dissolved manganese during low flow conditions. Though the dissolved manganese concentration may not change during low flow conditions, the prevailing dissolved manganese concentration exceeds the Environmental Protection Agency's

maximum allowable amount. This is probably a result of previous water quality impacts from pre-law mining without treatment, improper reclamation, and abandoned mine sites in the watershed.

Table 2 - Impacts on dissolved constituents at TS-04 at different flow conditions.

	Total Dissolved Solids (mg/l)*	Dissolved Iron (ug/l)**	Dissolved Manganese (ug/l)
Low Flow			
Prevailing	207	60	380
Anticipated	207	61	380
Mean Annual			
Prevailing	151	50	220
Anticipated	151	51	220
High Flow			
Prevailing	119	40	200
Anticipated	120	41	200
Max. Allowable (EPA, 1975, 1976)	500	1000	350

* mg/l = milligrams per liter ** ug/l = micrograms per liter

Flow Analysis - Flow analysis was conducted at the confluence of Montgomery Fork and McKinney Fork to determine whether the result of permitting this operation would alter streamflow rates and surface-water availability. The flow analysis, through curve number generation, indicates that there will be no significant changes in streamflow rates and surface-water availability.

Total Suspended Solids - Erosion and sediment yield were calculated and evaluated using a weighted cover factor (c). The sediment discharge rates for prevailing conditions, during mining conditions, and post mining conditions are shown in Table 3.

TABLE 3	
Sediment Yield at TS-04	
Condition	**Yield in tons/acre/ year**
Prevailing	5.1
During Mining	5.3
Post Mining	5.0

The predicted sediment yield at the trend station reflects an increase in sediment loading during the active phase of all anticipated mining in the watershed. The sediment yield load value is expected to decrease following the reclamation of all anticipated operations.

Buffer Zones

The proposed haul road will encroach upon the 100-foot stream buffer zone of five streams in the Montgomery Fork watershed. The haul road crosses an unnamed tributary to Wheeler Creek, North Fork, South Fork, an unnamed tributary to South Fork, and Spring Branch. The Tennessee Division of Water Pollution Control (TN WPC) has designated these streams at the haul road crossings as "Waters of the State." The stream flow at the road crossings is either perennial or intermittent. OSM agrees with this finding. The TN WPC has recently issued a General Resource Alteration Permit (ARAP) for the haul road reconstruction and coal mining activity.

The proposed haul road will be upgraded as described in the "PHC and HRP Review" section of this CHIA. To minimize adverse impacts from the haul road to the buffer zones at the receiving streams, sumps will be installed on both the inflow and outflow points of the culverts at four of the ARAP stream crossings. The fifth ARAP stream crossing (at North Fork) will have a sump constructed only at the culvert inlet. The natural drainways will not be relocated or altered except for minor disturbances due to culvert and sump installation at the road crossings. Stream channels will be armored to minimize erosion of the channel. In addition, all marshy areas on the up-hill side of the proposed haul road will be used to act as energy dissipaters and settling areas to minimize any adverse impacts from sedimentation to the receiving streams.

There should be no disturbance of acid/toxic materials during the reconstruction and upgrading of the existing road. Excavations will be limited to a ripper to a maximum of 1.5 feet. The disturbed strata will most likely be weathered materials. The coal that will be hauled on the road is the only type of acid/toxic material in the proposed permit area. Any coal spillage, fines cleaned out of the sumps, and any other unforeseen acid/toxic material encountered during the proposed operation will be removed from the site and disposed of at U.S. Coal's 2788 permit.

There will not be in-stream surface-water monitoring downstream from the proposed stream buffer zone disturbances in the Montgomery Fork watershed. Instead, the sumps will be monitored for sediment capacity and cleaned out accordingly. The locations of sediment control devices are shown on the Access Road Map. Along the haul road, storm water monitoring is required twice per year as part of the NPDES permit.

Ground Water

At the proposed site, local ground-water movement is generally from topographic highs to topographic lows through the secondary openings in the bedrock. Stress relief fractures along valley walls are the principle avenues for vertical ground-water movement. Lateral ground-water flow tends to move along bedding planes. In the alluvium along Montgomery Fork, ground water flows between the grains of the unconsolidated material. At the actual site (the portion that drains to TS-04), it is believed that local ground-water movement is from the haul road toward

the streams that flow to Montgomery Fork. Regional geologic structure indicates that ground water in deeper aquifers may flow to the west.

The water-bearing formations above the haul road are primarily perched zones and most likely have been altered from pre-law mining activities. Below the haul road, the water-bearing formations are fractured bedrock, coal seam voids, and alluvium along the streams.

Currently, there are no developed ground-water resources within one-half mile of the proposed operation in the Montgomery Fork watershed.

Data from an underground mine discharge (GWIM-1461), a spring (GWM-3), and a monitoring well (GWM-6) were used to document baseline ground-water conditions in the Montgomery Fork watershed. GWIM-1461 is discharge from an abandoned portal on the Red Ash coal. It flows from the west side of Pine Bald, through culvert #37, and enters an unnamed tributary to Wheeler Creek. Flow rates range from 0.11 to 1.06 cubic feet per second. GWM-3 is designated on the topographic map as Roasting Ear Spring at elevation 2920 feet. This is approximately 450 (vertical) feet above the elevation of the proposed haul road. The spring has been monitored as part of U.S. Coal's underground mine permit No. TN-011. Most of the recent data collected indicate the spring was mostly dry. Data from 1991 indicate the spring flowed at rates from less than 1 gpm (gallon per minute) to 5 gpm. GWM-6 is a well from which baseline data was used for U.S. Coal's Deep Mine No. 6 permit, No. TN-011. This well is located near the intersection of the proposed haul road and the haul road in U.S. Coal's Haul Road No. 1 permit, No. 2917. The total depth is 120 feet. The depth to water level ranged from 25 to 32 feet, based on 1994 monitoring data. The yield of the well is not known.

Baseline data from the three sites are shown below:

GWIM - 1461		
Parameter	**Range**	**Unit**
pH	6.4 - 6.9	----
Total Dissolved Solids	290 - 315	mg/l
Total Iron	0.18 - 0.69	mg/l
Total Manganese	0.09	mg/l
Sulfate	63 - 68	mg/l

GWM-3 (1991, 2000*)		
Parameter	**Range**	**Unit**
pH	6.2 - 7.2	----
Total Dissolved Solids	98 - 400	mg/l
Total Iron	0.21 - 8.24	mg/l
Total Manganese	0.16 - 1.01	mg/l
Sulfate	21 - 50	mg/l

*Recent data shows the better water quality.

GWM-6 (1994)		
Parameter	**Range**	**Unit**
pH	7.2 - 7.5	----
Total Dissolved Solids	494 - 605	mg/l
Total Iron	2.48 - 2.94	mg/l
Total Manganese	<0.1	mg/l
Sulfate	212 - 214	mg/l

Baseline monitoring indicates the water quality in the area is variable. Sometimes the water contains iron and manganese concentrations that exceed EPA's Secondary Maximum Contaminant Levels (1986) for public water systems. Water containing iron and manganese concentrations in excess of 0.3 mg/l and 0.05 mg/l, respectively, usually results in laundry staining and objectionable taste. In addition, the moderate to high concentrations of sulfate are indicative of coal mining disturbances and potential impact.

Conclusion

Even though there is a very slight potential for acid/toxic drainage from the proposed operation, the applicant has provided measures to minimize this potential, as described in the mining operation and hydrologic reclamation plans. Post mining site water quality is expected to be similar to the data reported on the discharge monitoring reports for the existing basins at area mines on the same coal seam.

Potential adverse impacts, if any, to ground-water quality would tend to be localized, most likely occurring between the site and Montgomery Fork. Ground-water monitoring is required at GWIM-1461 which is more applicable to potential impact from the mining part of this operation. Conditions are anticipated to be similar to the baseline data from the site. Ground-water

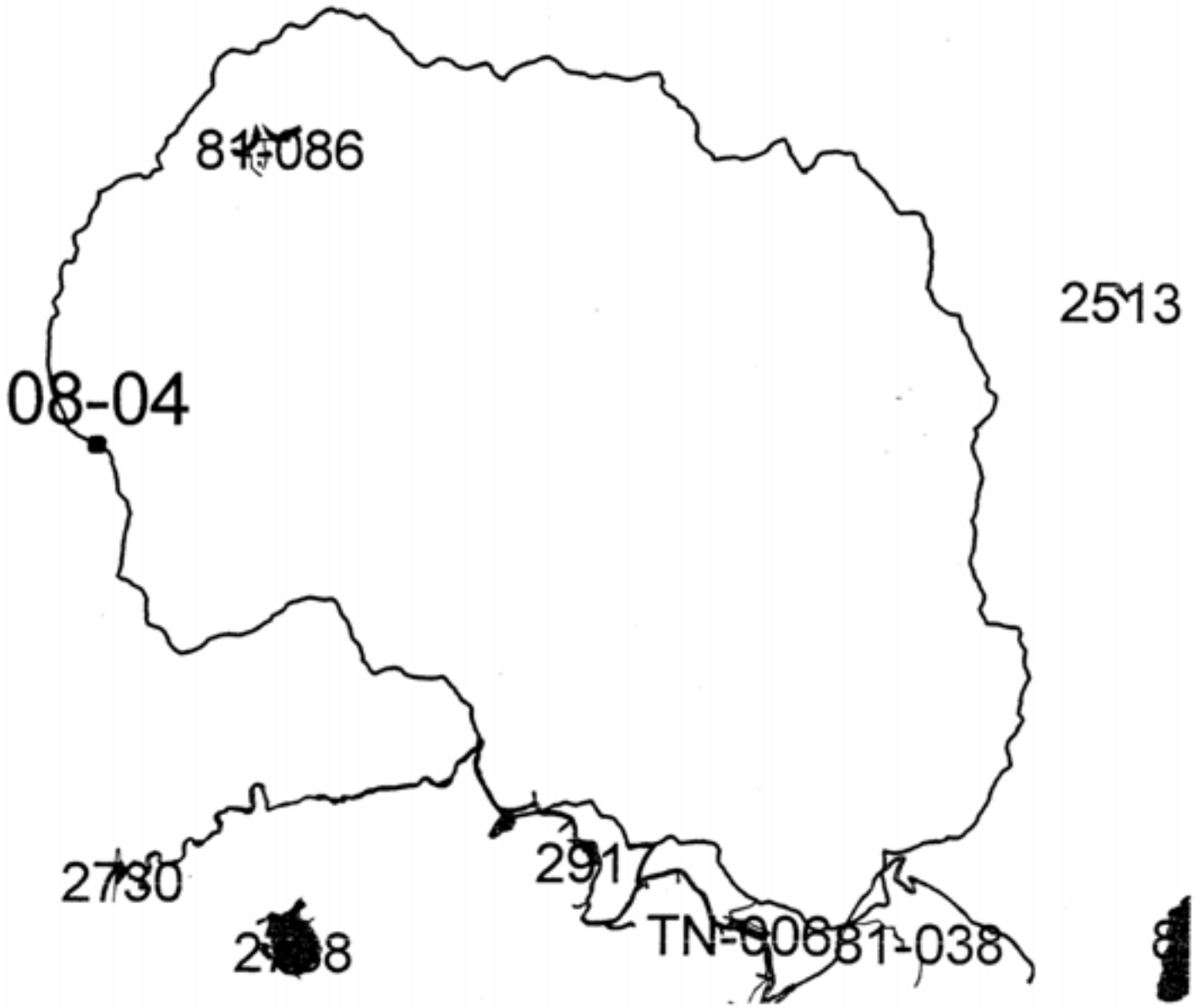
monitoring is not required along the haul road due to the stringent surface-water controls in place. There are no ground-water users within one-half mile of the site, and there is little likelihood for future development of the resource in this area.

Surface-water monitoring is required in the receiving stream below the underground mine. The sediment control devices along the haul road will be monitored for sediment capacity. The structures will be cleaned out as needed in order to minimize potential impacts from the proposed operation that may result in the diminution of the surface-water resource. As well, Basin 001 discharge will be monitored and storm water discharge from the haul road will be monitored in accordance with the NPDES permit.

Based upon worst-case conditions, the projected impacts of the proposed mining operation will produce little or no adverse change in the prevailing hydrologic balance of Subarea No. 04. The water quality of the receiving stream should remain within acceptable limits for its particular stream-use classification.

On the basis that the proposed mining activity will comply with approved permit conditions and all performance standards, OSM has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance within and outside the permit area.

Permits in CHIA 08-04 Watershed Area



Knoxville Field Office
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Cumulative Hydrologic Impact Assessment No. 21
Cumulative Impact Area No. 09
Subarea No. 03

Permitting Action

OSM No. TN-013
U.S. Coal, Inc.
Deep Mine No. 10
Campbell County, Tennessee

This cumulative hydrologic impact assessment (CHIA), dated June 6, 2002, meets the requirements of 30 CFR 942.784.14(f). This CHIA considers all existing and anticipated mining operations and addresses potential cumulative hydrologic impacts in CIA Area 09, Subarea No. 03.

Existing and Anticipated Mining Operations Considered in this CHIA

Permit No.	Permit Name	Mine Type	Permitted Acres	Disturbed Acres
2513	Cove Creek Energies, Inc.	Tipple	2.4	2.4
3028	Tennessee Mining, Inc.	Prep. Plant	130	30
TN-012	Gatliff Coal Company	Surface	664.5	18.6
TN-013	U.S. Coal, Inc.	Underground	70.1	70.1

U.S. Coal, Inc.'s (U.S. Coal) proposed operation is located in two watersheds, draining both to Cove Creek and Montgomery Fork. A total of 70.1 acres will be permitted for underground mining and a haul road. About 58.9 acres (all haul road) drain to several tributaries which drain to Montgomery Fork. The remaining 11.2 acres (deep mine face up/load out areas and a portion of the haul road) drain to Adkins Branch which drains to Cove Creek. Cove Creek flows into the Clinch River, and Montgomery Fork flows into New River of the Cumberland River. Potential impacts to the Montgomery Fork watershed are evaluated at Cumulative Impact Area No. 08, Subarea No. 04, in CHIA No. 86. Potential impacts to the Cove Creek watershed are considered in this CHIA.

Operation Plan

U.S. Coal proposes to mine approximately 436 acres of the Pewee and Pewee Rider coal seams by conventional underground methods. In addition, approximately 7.86 miles of an existing road will be upgraded to a haul road and included in the proposed permit.

A portion of the haul road and the underground mine face up/load out areas lies in the Cove

Creek watershed. The operation plan for that portion of the proposed permit area is described in this CHIA. The operation plan for the remainder of the U.S. Coal operation is described in CHIA No. 86, for Cumulative Impact Area 08, Subarea No. 04.

Both the underground mine face up and load out areas are located on previously mined benches of the Pewee and Red Ash coal seams, respectively. The temporary spoil storage area will be on the same bench as the face up area. The storage area will consist of material removed to construct drainage control facilities and face up/load out areas and mine development waste. Excess underground development waste will be disposed of at U.S. Coal's Jordan Ridge Refuse Area (OSM No. 2788). Blasting is not proposed. Coal will be stockpiled on the lower bench which is also the location of the load out area and basin 001. Basin 001 will receive surface run off from the face up and load out areas plus pumpage from the underground mine that is not recirculated for facilitating coal removal. Basin 001 will remain as a permanent structure. On the Pewee level, there will be one wet seal constructed with concrete block at the lowest portal and a pipe that drains to a rock-lined ditch that flows over the outslope to the sediment basin. The remaining entries, including the existing auger openings on the Red Ash level, will be sealed with existing spoil pushed into the holes. All buildings and portable structures will be removed for reclamation. Both the face up and load out areas will be backfilled with all available spoil to at least four feet above the coal seams. The backfilled and regraded areas will then be seeded, fertilized, and mulched.

Approximately 7.8 of 66.7 acres of haul road lie in the Cove Creek watershed. The road is located along an existing strip bench or on an existing road on both the Pewee and Red Ash levels. Disturbance will be limited to regrading and improving the road surface, widening the road if needed, and installing drainage and sediment control structures. The haul road is a permanent structure and will remain as it is constructed.

PHC and HRP Review

The major hydrologic concerns in the Subarea No. 03, or TS-03, watershed include the sediment contributions to surface run off, acid/toxic drainage from the site, and the effects on the ground-water system from mining and potential subsidence.

The applicant has demonstrated that the proposed operation has been designed to minimize hydrologic impacts through implementation of the mining operation and hydrologic reclamation plans. These plans demonstrate that the sediment control structures will reduce suspended solids to acceptable discharge standards. Basin 001 will not be constructed in a blue-line stream.

The haul road in this watershed is existing. The road will be upgraded using the best technology currently available to control erosion. This includes sediment control such as silt fencing, hay bales or windrowing, for example. Disturbance will be limited to regrading the road surface and installing drainage and sediment control structures. Excavations to reconstruct the road will be shallow (about 1.5 feet) and most likely will expose weathered materials. Any potential acid/toxic materials encountered will be disposed of at U.S. Coal's Jordan Ridge Refuse Area.

Existing slide and slump areas near the proposed haul road location will not be disturbed by reconstruction activities. During active operations, surface drainage from the haul road will be directed through several drainage ditches, existing ponded areas, and several culverts before leaving the permit area and entering the receiving streams. Roads will be sloped to the up-hill ditch line and be graded with a 1 to 2 degree slope. This allows the ditches to be more functional to decrease the likelihood of off-site impacts. Several sumps will be constructed at some of the culvert inflow points to control flow and contain most of the sediment run off. The sumps will be cleaned out when 50% capacity is reached during active coal haulage and will remain as permanent structures. The upper road surface will be covered with durable rock in the 1-inch to 3-inch size range to also minimize additional contributions of suspended solids to the run off. Road culverts will be installed with rock headways to prevent wash out and erosion and thus, additional contributions of suspended solids to the receiving streams. The road will be maintained by grading and resurfacing as necessary.

Chemical analyses of the strata to be disturbed indicate that the coal is the only potentially acid/toxic material in the proposed permit area. Once mined, the coal will be temporarily stockpiled and will be removed from the site as quickly as possible. The Pewee coal seam has been mined for several years in the adjacent areas. Historically, acid/toxic drainage has not been associated with these sites. Discharge monitoring reports from adjacent area mines (included in the application) support this. The pH ranges from 6.8 to 8.3; total iron ranges from 0.10 to 1.85 mg/l (milligrams per liter); and total manganese ranges from 0.08 to 0.35 mg/l. Any acid/toxic materials encountered during the mining operation, including any acid/toxic clean out materials from Basin 001 and the sumps, will be disposed of at U.S. Coal's Jordan Ridge Refuse Area.

If by chance water quality problems should develop, contingent water treatment plans are provided to meet effluent limitations and water quality standards. There may be a minimal increase in dissolved solids and sulfate concentrations in the receiving streams during mining. The increase can be minimized by limiting the area of coal exposed during removal activities and stockpile duration. Of course, drainage from these areas will be routed through the sediment basin.

The potential for impacts to the ground-water system from mining and potential subsidence is unlikely from this operation. The effects of subsidence, should it occur, should be negligible, based upon extraction ratios, factored-in safety zones, and the thickness and type of overburden. The aquifers above the coal to be mined are thin, undeveloped perched zones with little likelihood of future development.

Surface Water

Four surface-water sites (one in the TS-04 watershed, Montgomery Fork; three in this watershed, Cove Creek) were monitored to document seasonal baseline conditions. The data from Adkins Branch and Cove Creek indicate the water quality is reasonably good, but shows impact from coal mining activities based on the moderately high concentrations of sulfate (up to

16 milligrams per liter (mg/l)). The water consistently tested with a near neutral pH (5.8 - 7.7) and with total iron and total manganese concentrations less than 0.6 mg/l under seasonal flow conditions.

Data from CIA 09, Trend Station TS-03, were also evaluated in this CHIA. TS-03 is located on Cove Creek at Caryville, Tennessee, immediately above Cove Lake. TS-03 drains an area of approximately 23.9 square miles designated as Subarea No. 03. Flow from the sediment basin in the proposed permit area will potentially enter Adkins Branch that drains to Cove Creek about 2.4 miles upstream from TS-03.

Water Use - The State of Tennessee surface-water use classifications for Cove Creek and its major tributaries from mile 16.1 to the origin include domestic and industrial water supply, fish and aquatic life, recreation, irrigation, and livestock watering and wildlife. The nearest surface-water user is located approximately 3.3 miles downstream from the proposed site. Cove Creek, at mile 16.8, is the source supply for domestic water use in Caryville.

Water Chemistry - Table 1 indicates that for all flow conditions, under a "worst-case" situation, the pH values are expected to slightly decrease as a cumulative result of present and anticipated mining operations. All anticipated pH values are within acceptable limits for domestic water supplies and freshwater aquatic life (Environmental Protection Agency, 1976).

Table 1 - Impact on pH at TS-03 at different flow conditions.

	LOW FLOW	MEAN ANNUAL	HIGH FLOW
Prevailing	7.6	7.3	7.4
Anticipated	7.4	7.2	7.3

Table 2 shows a comparison of concentrations for total dissolved solids, dissolved iron, and dissolved manganese for prevailing and anticipated hydrologic conditions at TS-03. Under "worst-case" conditions, for all flow conditions, the issuance of this permit in conjunction with other operations in Subarea No. 03 will result in potential increases in the total dissolved solids, dissolved iron, and dissolved manganese concentrations. The anticipated concentrations are within the U.S. Environmental Protection Agency standards.

Table 2 - Impacts on dissolved constituents at TS-03 at different flow conditions.

	Total Dissolved Solids (mg/l)*	Dissolved Iron (ug/l)**	Dissolved Manganese (ug/l)
Low Flow			
Prevailing	166	50	10
Anticipated	170	119	57
Mean Annual			
Prevailing	57	110	10
Anticipated	63	178	57
High Flow			
Prevailing	74	70	30
Anticipated	79	139	77
Max. Allowable (EPA, 1975, 1976)	500	1000	350

* mg/l = milligrams per liter ** ug/l = micrograms per liter

Flow Analysis - Flow analysis was conducted at the confluence of Adkins Branch and Cove Creek to determine whether the result of permitting this operation would alter streamflow rates and surface-water availability. The flow analysis, through curve number generation, indicates that there will be no significant changes in streamflow rates and surface-water availability.

Total Suspended Solids - Erosion and sediment yield were calculated and evaluated using a weighted cover factor (c). The sediment discharge rates for prevailing conditions, during mining conditions, and post mining conditions are shown in Table 3.

TABLE 3

Sediment Yield at TS-03

Condition	Yield in tons/acre/ year
Prevailing	1.7
During Mining	2.1
Post Mining	1.3

The predicted sediment yield at the trend station reflects an increase in sediment loading during the active phase of all anticipated mining in the watershed. The sediment yield load value is expected to decrease following the reclamation of all anticipated operations.

Buffer Zones

The proposed haul road and underground mining operation will not encroach upon any 100-foot stream buffer zones in the Cove Creek watershed.

Ground Water

At the proposed site, local ground-water movement is generally from topographic highs to topographic lows through the secondary openings in the bedrock. Stress relief fractures along valley walls are the principle avenues for vertical ground-water movement. Lateral ground-water flow tends to move along bedding planes. In the alluvium along Adkins Branch and Cove Creek, ground water flows between the grains of the unconsolidated material. At the actual site (the portion that drains to TS-03), it is believed that local ground-water movement is from the haul road and mine area toward Asher Branch and Adkins Branch, respectively. Regional geologic structure indicates that ground water in deeper aquifers may flow to the west.

The water-bearing formations above the coals to be mined are primarily perched zones and most likely have been altered from pre-law mining activities. Below the lowest coal, the water-bearing formations are fractured bedrock, coal seam voids, and alluvium along the streams.

Currently, there are no developed ground-water resources within one-half mile of the proposed operation in the Cove Creek watershed.

Monitoring wells associated with adjacent area operations provide limited data. These wells are currently destroyed or blocked. Any available data from these wells are located in the mining permits for adjacent area operations. Water quality and quantity data from eight seeps, some draining from orphan spoil banks from mining the Jellico, were supplied in the permit application to supplement the limited well data.

GWIM-1461 is an underground mine discharge from the Red Ash seam, located approximately 4500 feet down dip from the proposed face-up area, but in the Montgomery Fork watershed. Flow rates range from 0.11 to 1.06 cubic feet per second. No ground-water resources were identified in the mine and haul road area draining to Cove Creek.

Baseline data from GWIM-1461 are shown below:

GWIM-1461		
Parameter	**Range**	**Unit**
pH	6.4 - 6.9	----
Total Dissolved Solids	290 - 315	mg/l
Total Iron	0.18 - 0.69	mg/l
Total Manganese	0.09	mg/l
Sulfate	63 - 68	mg/l

Baseline monitoring indicates the water quality is reasonably good. Sometimes the water contains iron and manganese concentrations that exceed EPA's Secondary Maximum Contaminant Levels (1986) for public water systems. Water containing iron and manganese concentrations in excess of 0.3 mg/l and 0.05 mg/l, respectively, usually results in laundry staining and objectionable taste. In addition, the moderate concentrations of sulfate are indicative of coal mining disturbances and potential impact.

Conclusion

Even though there is a very slight potential for acid/toxic drainage from the proposed operation, the applicant has provided measures to minimize this potential, as described in the mining operation and hydrologic reclamation plans. Post mining site water quality is expected to be similar to the data reported on the discharge monitoring reports for the existing basins at area mines on the same coal seam.

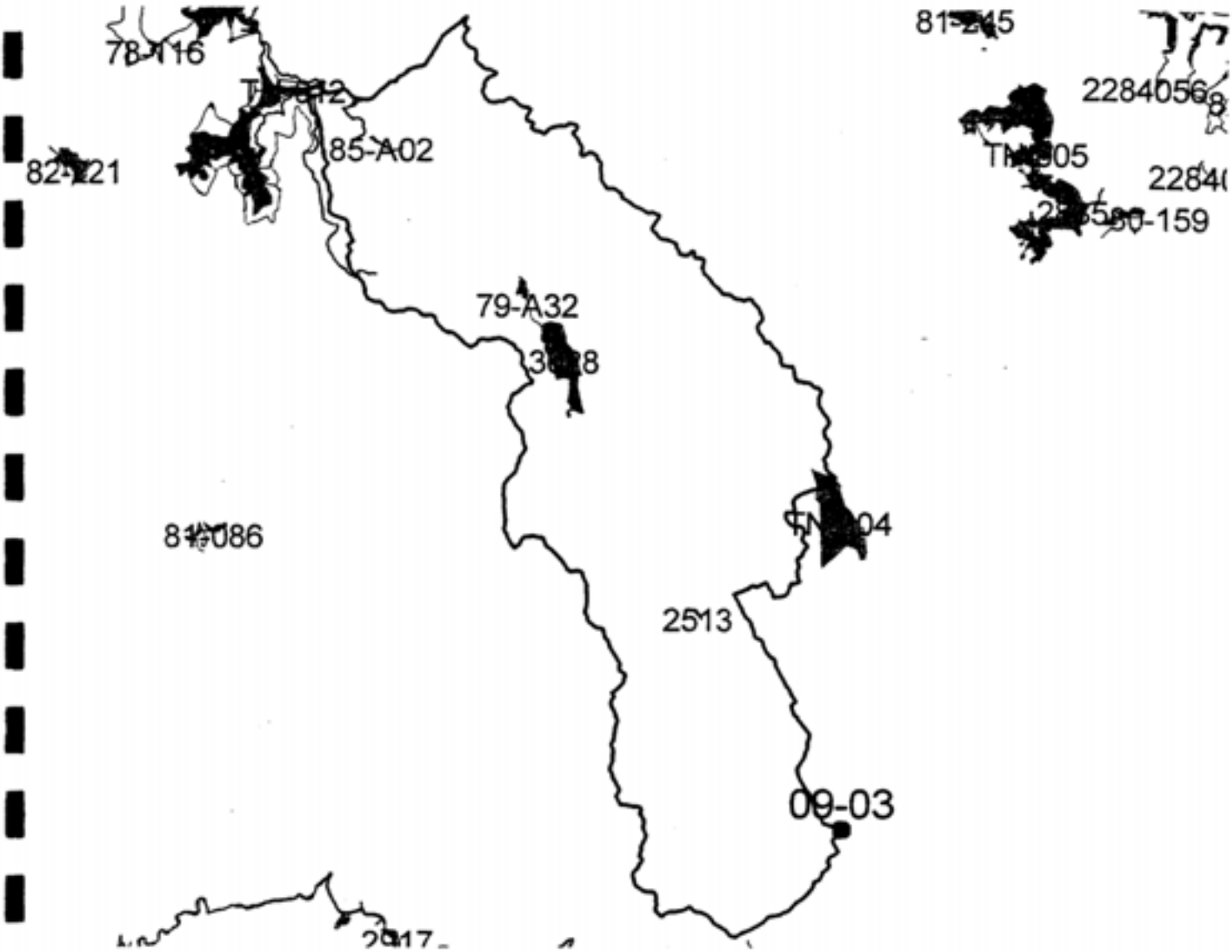
Potential adverse impacts, if any, to ground-water quality would tend to be localized, most likely occurring between the site and Cove Creek. Ground-water monitoring is not required in this watershed. There are no ground-water users within one-half mile of the site, and there is little likelihood for future development of the resource in this area.

Surface-water monitoring is required in Adkins Branch, the receiving stream. The sediment basin will be monitored in accordance with NPDES permit requirements. The monitoring is required to determine whether potential impacts from the proposed operation may result in the diminution of the surface-water resource.

Based upon worst-case conditions, the projected impacts of the proposed mining operation will produce little or no adverse change in the prevailing hydrologic balance of Subarea No. 03. The water quality of the receiving stream should remain within acceptable limits for its particular stream-use classification.

On the basis that the proposed mining activity will comply with approved permit conditions and all performance standards, OSM has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance within and outside the permit area.

ermits in CHIA 09-03 Watershed Area



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U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
FINDING OF NO SIGNIFICANT IMPACT

U.S. Coal, Inc.
Deep Mine No. 10
OSM Permit No. TN-013

A. Introduction

The Office of Surface Mining (OSM) proposes to issue a permit to U.S. Coal, Inc., to conduct a surface coal mining and reclamation operation in accordance with the approved operation and reclamation plan which has been determined by OSM to be in compliance with the Surface Mining Control and Reclamation Act (SMCRA). This determination was made after a thorough technical review of the applicant's proposal, as contained in the permit application, by a multi-disciplinary team of professionals in geology, hydrology, engineering, and biology.

The process of permit review and issuance is necessary in order to allow the applicant to recover the coal resource with minimal environmental impacts. This is accomplished by requiring compliance with the National Environmental Policy Act (NEPA) and SMCRA.

The three decision alternatives considered were: no action, permit approval, and permit disapproval. The "no action" alternative was eliminated because SMCRA and OSM regulations require that an action to approve or disapprove the permit application must be taken. Permit approval is the preferred alternative.

B. Statement of Environmental Significance of the Proposed Decision

OSM has determined that this proposed decision would not have a long-term major impact on the quality of the human environment. Therefore, an environmental impact statement pursuant to Section 102(2)(c) of NEPA is not required. This finding of no significant impact is based on the enclosed OSM environmental assessment, which identifies and discusses the environmental impacts resulting from the proposed decision and reasons stated below.

C. Reason

Impacts to environmental and socioeconomic resources resulting from the proposed surface coal mining and reclamation operations are predicted to be minor in the short-term while long-term impacts should be minimal. These impacts are addressed in the enclosed environmental assessment. Mitigating measures have been incorporated in the approved operation and reclamation plan that will support OSM's finding of no long-term major impacts from the proposed surface coal mining and reclamation operation.

	Authorized Official	Title	Date
Prepared by:	Jeff Coker	Biological Scientist	6/14/02
Approved by:	Bunky Brock, Supervisor		6-14-02

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
ENVIRONMENTAL ASSESSMENT

U.S. Coal, Inc.
Deep Mine No. 10
OSM Permit No. TN-013

A. Proposed Decision

The Office of Surface Mining (OSM) proposes to approve the permit application and issue a permit for the surface coal mining and reclamation operation proposed by U.S. Coal, Inc., (U.S. Coal).

B. Need for the Proposed Decision

Pursuant to the Surface Mining Control and Reclamation Act (SMCRA), U.S. Coal must obtain a permit from OSM to conduct the proposed surface coal mining and reclamation operation. In accordance with the National Environmental Policy Act (NEPA), OSM has, in consultation and cooperation with the Tennessee Valley Authority (TVA), developed this environmental compliance document to assist in the agency decisionmaking process. The proposed decision of permit issuance will allow U.S. Coal to conduct the surface coal mining and reclamation operation in accordance with SMCRA while ensuring that long-term environmental impacts are minimal.

C. Decision Alternatives

Alternative 1: Permit Application Approval - OSM may issue the permit upon finding that the proposed operation will meet the requirements of SMCRA and the Federal Program for Tennessee.

Alternative 2: Permit Application Disapproval - OSM may disapprove the permit application upon finding that the proposed operation will not meet the requirements of SMCRA and the Federal Program for Tennessee.

Alternative 3: No Action - The Federal Program for Tennessee requires that OSM approve or disapprove a permit application for surface coal mining and reclamation operations. Accordingly, this alternative will not be considered further.

D. Applicant's Proposal

The location of the proposed Deep Mine No. 10 is approximately 2.1 miles northwest of the town of Caryville and Cove Lake State Park in Campbell County, Tennessee. The mine site is in the Clinch River watershed at approximately 2480 ft. elevation and is drained locally by Adkins Branch, a tributary of Cove Creek. The vast majority of the permitted haul road is in the Montgomery Fork watershed of the New River basin. U.S. Coal proposes to conduct underground mining on the Pewee and Pee Wee Rider coal seams. U.S. Coal will utilize bulldozers, front-end loaders, and trucks for mining and reclamation operations within the proposed permit area. The proposed permit area is 70.08 acres. The entire proposed permit area would be disturbed during the 5-year life of the operation. Total affected acreage for this proposed permit is 436.32 acres. The mine is expected to have an average annual production of approximately 250,000 tons and life-of-mine production of approximately 1,250,000 tons.

The proposed permit area was previously surface mined during the late 1960's. Highwalls were left exposed over the majority of the area. The existing haul road to be permitted in this application was used to transport coal under various permits throughout the 1960's and 1970's. The disturbed areas within the proposed permit area, with the exception of the haul road and the sediment basin, will be reclaimed utilizing all reasonably available spoil. Insufficient spoil materials are present to eliminate the highwall. During reclamation, the exposed coal seam will be covered with a minimum of 4 ft. of spoil materials. After the backfilled areas are final graded, topsoil substitute materials will be revegetated with a seed mixture capable of producing a permanent, diverse, and effective ground cover. Shrubs will also be established. The approved postmining land use will be undeveloped with a secondary use of fish and wildlife habitat. The haul road and sediment basin will be retained as permanent structures.

E. Summary of Environmental Impacts

Initially, the mining operation will cause temporary changes to environmental resources such as: (1) topography, (2) land use, (3) wildlife habitat, (4) air quality, and (5) esthetics. In addition to these temporary changes, some permanent or long term changes will occur during the course of the mining and reclamation operation such as: (1) additional alteration of the geologic strata, (2) increased infiltration rates through the backfilled material, (3) permanent retention of a sediment basin, and (4) postmining vegetative cover. Proper implementation of the proposed operation and reclamation plan is predicted to prevent or minimize any long-term adverse effects that may occur from the temporary and permanent changes.

F. Description of the Existing Environment

The existing environmental resources within and adjacent to the proposed permit area are described in the permit application and OSM's environmental impact statement (OSM-EIS-18) for the Federal Program for Tennessee.

1. Topography, Geology, and Soils

The proposed permit area is located in the Cove Creek and New River watersheds and is drained locally by Adkins Branch, a tributary of Cove Creek and Montgomery Fork, a tributary of New River. The area is in the Wartburg Basin Region of the Tennessee coalfields. The topography of the proposed permit and surrounding area is typical of the Wartburg Basin Region in that it is characterized by rugged, mountainous terrain with steep slopes and narrow valleys. The site has been previously contour mined leaving a partially exposed highwall. An existing haul road provides access to the Pewee mine bench level.

Geologically, the proposed mine site is located in strata of the Redoak Mountain Formation. Alternating beds of shale, sandstone, and coal characterize this Pennsylvanian age rock formation. The Pewee coal seam, the target coal, is found at or near the top of this formation overlying approximately 10 feet of gray shale and the Silvey Gap Sandstone. The dip is approximately 0.4 degrees to the northwest. Coal seam thickness in the proposed permit area averages approximately 47 inches.

No ground water users were identified within the permit area. The closest ground water users are likely located in the Caryville community approximately 1.5–2 miles southeast of the proposed permit area. Although Caryville is served by municipal water supply, any wells in this area would be at an elevation approximately 1200-1400 feet below the Pewee coal seam. Ground water movement in the proposed permit and adjacent areas is anticipated to flow downward through fracture systems until reaching relatively impermeable shale units. Upon encountering these more impermeable shale units, the localized ground water movement would then be perpendicular to topographic contours until appearing at the surface as springs and seeps. Ground water discharging from a abandoned underground mine portal located on the Pewee seam approximately 0.85 miles southwest of the proposed mine site had reasonably good water quality with pH in the 6.4 – 8.2 range and metals in the low range (Fe 0.0 – 0.69 mg/l and Mn 0.0 – 0.12 mg/l). On a localized level, the strata has a slight dip of 0.4 degrees to the northwest.

U.S. Coal, through a geologic sampling and analysis program, has determined potentially acid-producing material is not present within the proposed permit area other than the coal seam proper. U.S. Coal has not developed a toxic material handling plan (TMHP), instead opting to haul any toxic materials associated with the coal to their permitted refuse disposal facility where disposal would occur in accordance with that approved plan. This should prevent material damage to the hydrologic balance outside the proposed permit area.

There are two soil series present within those portions of the proposed permit area subject to disturbance. The soils are identified as Bethesda soils and Muskingham-Gilpin soils. As essentially the entire permit area has been previously disturbed, the Bethesda soils or mine spoil make up the vast majority of the soils to be disturbed. Neither of the identified soil series are considered to be prime farmlands.

2. Vegetation, Land Use, and Esthetics

The vegetative cover type of the previously unmined areas surrounding the proposed permit area is mixed mesophytic forest. The forest canopy is mostly composed of various species of both red and white oaks, hickories, yellow poplar, red maple and yellow pine. The understory includes stands of laurel and rhododendron, particularly along the streams in the vicinity of the proposed mine site, sourwood, dogwood, oaks, hickories, and numerous shrubs and berry plants. Timbering operations have removed a majority of the mature saw timber leaving an uneven aged forest dominated by early saw and late pole size timber classes. The previously mined or disturbed portions of the proposed permit area are currently supporting a vegetative cover comprised of various herb and early successional woody species.

Tennessee Wildlife Resources Agency (TWRA), the surface owner of the proposed permit area, acquired the property in October 1991. Although the proposed permit area is not subject to specific zoning restrictions or land use limitations, TWRA has developed a specific management plan for the land. Under this management plan, TWRA has actively managed the proposed permit and adjacent areas as a wildlife management area (Royal Blue Wildlife Management Area). Cumberland Trail State Park is also located within the wildlife management area and in the immediate vicinity of the proposed mine operation. This park is comprised of a hiking trail and associated support facilities. When the trail is ultimately completed, it will extend from Chattanooga, TN, to Middlesboro, KY. That portion of the park / trail in the vicinity of the proposed mining activities was constructed in 2000 and is identified as the Smoky Mountain Trail segment. A portion of this trail segment crosses the proposed haul road at Big Bruce Ridge. Montgomery Fork Campsite,

a designated camp area for trail users, is located approximately 0.4 miles from the proposed haul road. Local residents use the area for occasional recreation activities such as hunting, camping, hiking, off-road vehicle use, wildlife observation, etc. The closest known residential property is located approximately 1.5 miles east southeast of the proposed permit area.

The esthetic qualities in the general area of the proposed mine site have been heavily impacted by past coal mining operations, most of which occurred during the 1960's and early 1970's. Highwalls were left exposed at many of the sites and spoil materials were typically left unreclaimed or were revegetated with pine or black locust. Timbering operations, occasional post-SMCRA mining activities, utility lines, and the installation of roads associated with these land uses have also had some impact on the esthetics of this area.

3. Hydrology

U.S. Coal 's proposed Deep Mine No. 10 is located in the Cove Creek and New River watersheds, Cumulative Impact Areas (CIAs) 9 and 8 respectively. Adkins Branch, a tributary of Cove Creek, receives run-off from the underground mine site and a short section of the haul road. Montgomery Fork, a tributary of New River, receives run-off from the vast majority of the permitted haul road. OSM has prepared Cumulative Hydrologic Impact Assessments (CHIAs) for the subwatersheds or trend stations on Montgomery Fork (TS-4) and Cove Creek (TS-3). The CHIAs for the two trend stations were developed for this proposed mining operation to consider the combined hydrologic impacts on both the ground water and surface water resources resulting from existing and anticipated mining operations. A detailed description of the existing environment, as it relates to both surface and ground water, is incorporated into the above CHIAs and has been included in this Decision Document beginning on page III-1. Additional information describing the existing environment may also be found in the permit application and OSM's environmental impact statement for the Tennessee Federal Program (OSM-EIS-18).

4. Fish and Wildlife Resources and Threatened or Endangered Species

Terrestrial wildlife within the proposed mine site and surrounding area consists primarily of upland forest species such as, but not limited to, white-tail deer, turkey, raccoon, bobcat, eastern gray squirrel, eastern cottontail rabbit, red and gray fox, opossum, striped skunk, ruffed grouse, bobwhite quail, and numerous small mammals, songbirds, amphibians, and reptiles. The diversity of the wildlife habitat within the proposed mine site and adjacent areas is limited somewhat because of the oak/hickory forest dominating the general area. However, this is offset to a great extent by the fact that the area has been set aside and managed for

the development of wildlife populations. Recent studies by members of the "birding" community reportedly found that Royal Blue W.M.A. supported a relatively abundant population of neotropical songbirds. Although currently given no legal protection status under Federal law, many of the neotropical songbird species are identified as species of concern by organizations such as "Partners in Flight". Many of these bird species are reportedly on the decline for reasons that may include deforestation in Central and South America, forest fragmentation in North America, and other forms of habitat loss. In describing the wildlife resources, it is also important to note that Royal Blue W.M.A. is one of two places in Tennessee where wildlife organizations are attempting to re-establish elk populations. There have been two recent releases of elk in the vicinity of the proposed haul road.

Riparian areas, vegetated areas adjacent to bodies of water, are located within the proposed mine site and/or adjacent areas. These zones of integration, ecotones, enhance diversity by providing subtle change from one vegetative type to another. These ecotones support wildlife species from the distinct vegetative communities as well as adaptable species that tend to colonize such transitional zones.

Fishery resources in the immediate vicinity of the proposed mine site are likely to be very limited to non-existent as the steep topography and ephemeral nature of the surface flow make it unlikely a fish population could be sustained. However between 0.5 and 1 mile below the proposed mine site, stream gradients are much less and flow patterns are likely to be more conducive to sustaining at least a seasonal fishery resource. Fishery resources at this location are expected to be limited to non-game species typical of headwater habitats. These habitats are normally dominated by cyprinids (minnows) and percids (darters). In August 1996, a stream survey was conducted on Cove Creek just below the confluence with Adkins Branch, approximately 2 stream miles below the proposed mine face-up. The survey of this stream section identified a total of 14 fish species including 4 game fish species and 1 non-game fish species. A total of 168 fish were collected during this survey. Only 19 game fish were collected. No state or federally listed species of fish were identified during this survey. Using fish indexed scoring systems, this section of Cove Creek was classified as "poor". However, when evaluating benthic macroinvertebrates collected during the stream survey, Cove Creek received a bioclassification of "fair to good".

In a January 22, 2002, correspondence, OSM provided the Tennessee Department of Environment and Conservation's Division of Natural Heritage (DNH) an opportunity to comment on the proposed application and any issues or concerns they might have, particularly those relevant to protected species. The applicant also solicited comment from DNH relevant to the proposed project. Neither OSM nor the applicant received a response from DNH.

In an April 18, 2002, correspondence to the applicant, the TWRA expressed a number of comments and concerns related to the proposed project. These comments and concerns were not related to either state or federally listed species. In developing the proposed project, the applicant has addressed many of the TWRA concerns.

In a letter dated February 28, 2002, the U.S. Fish and Wildlife Service (FWS) indicated that their records showed federally listed threatened or endangered species (Indiana bat) occurring within approximately 9.5 miles of the project. The FWS requested that potential impacts to the species be evaluated. In a May 15, 2002, electronic correspondence, OSM provided additional information to the FWS concerning potential impacts to the Indiana bat. In a June 7, 2002 correspondence, FWS concurred with OSM's conclusion that the operation, as proposed, should have no effect on any threatened or endangered species, or result in destruction or adverse modification of critical habitats.

5. Cultural and Historic Resources

The Deputy State Historic Preservation Officer (DSHPO) stated in a letter dated March 26, 2002, that the proposed operation will have no effect on National Register listed or eligible properties.

6. Air Quality, Socioeconomics, and Public Controversy

The Tennessee Department of Environment and Conservation has determined that the air quality of Campbell County is of sufficient quality that monitoring is not required or necessary. The applicant has proposed a fugitive dust control plan that is predicted to minimize air quality impacts from fugitive dust. Previous mining at the proposed site has not caused any known measurable air quality degradation.

1990 census data indicated that coal mining and mining related jobs in Campbell County are ranked sixth behind manufacturing, retail trade, construction, health services and educational services. In 1997, it was estimated that 21.3% of the population in Campbell County lived at or below the poverty level. According to figures released for the year 2000, approximately 97.6% of the population in Campbell County was classified as White/non-Hispanic. Approximately 0.3% were classified as Native American. If approved, the proposed coal mining activities would create some jobs in the local area and add revenue to both the local economy and county tax base.

During the public comment period, OSM received no comments from the public at large and no requests for an informal conference on the permit application.

TWRA did submit comments on the proposed mining activities. Also, the Cumberland Trail Conference submitted comments to OSM just prior to initiation of the comment period. All comments received regarding the proposed operation and reclamation plan were given serious consideration during the technical review process.

7. Wetlands, Floodplains, and Wild and Scenic Rivers

There are no wetlands, floodplains, or wild and scenic rivers that would be affected by the proposed mining and reclamation operation.

G. Environmental Impacts

Alternative 1

Approval and implementation of U.S. Coal's operation and reclamation plan and permit issuance will result in temporary changes to some existing environmental resources such as: (1) topography, (2) land use, (3) wildlife habitat, (4) air quality, and (5) esthetics. The duration and the intensity of the temporary impacts to the environmental resources identified above are predicted to last from 5 years (the life-of-mine) to 10 years (final bond release), and the intensity is predicted to be initially adverse and diminishing to minor.

The topography, land use, and wildlife habitat will be adversely impacted initially as a result of the land being temporarily disturbed for the recovery of the coal resource. The topography will be further altered during removal and storage of spoil materials; however, these spoil materials will be regraded during reclamation of the site to reestablish topographic conditions that approximate those which existed before disturbances associated with this permit.

Land clearing operations will eliminate the existing wildlife habitat within the mine face-up portion of the proposed permit area (approximately 3 acres) resulting in the more mobile species being displaced. The haul road portion of the proposed permit area (approximately 67 acres) is essentially existing and as such will require little or no additional disturbance to existing vegetation / habitat. The operation, as proposed, should have no adverse effect on any federally listed threatened or endangered species. Appropriate sediment control measures have been incorporated into the proposed mining plans so as to minimize impacts to the habitat of aquatic species. As U.S. Coal contemporaneously reclaims the proposed mine site, the ground cover and shrubs to be reestablished will enhance wildlife habitat and provide opportunity for the displaced species to reinhabit the area as well as different species inhabiting the area. Measures proposed in the operation and reclamation plan such as establishment of the grass - legume herbaceous ground cover as well as the shrub species proposed to be planted and

retention of the sediment basin as a permanent structure will provide habitat diversity and enhance the establishment of wildlife.

Measures have been incorporated into the approved plan to prevent adverse impacts to public parks. Cove Lake State Park is in the viewshed of that portion of the proposed mine development that includes the face-up and coal load-out area as well as a short section of haul road. There will be little or no esthetic impacts to Cove Lake State Park as the mine site development is quite small, over 2 miles from the park, at an elevation some 1400 feet higher than the park, and essentially is already existing (i.e., the highwall required for the mine-face-up, coal load-out, and haul road have existed for 30 or more years). Sediment control measures have been approved to control run-off from the mine development area and haul road. Monitoring of water quality is required to insure no unanticipated impacts occur to receiving streams or Cove Lake. As previously mentioned, Cumberland Trail State Park crosses one section of the haul road, but is approximately 0.56 miles from the mine-face up area. This haul road already exists and has existed for 30 years or more, however it is not currently subject to use for hauling coal. In consultation with state park personnel, the applicant has taken measures to minimize any potential impacts to this park. These measures include construction of a 100 – 150 foot berm alongside the haul road to route hikers safely alongside the road to a point where crossing the road can occur in the safest manner, requiring that coal company related vehicles observe a maximum speed of no more than 20 miles per hour when using this section of road, controlling dust emissions associated with use of the road, and vegetating the berm with species recommended by the state park. The state park authorities have agreed to post signs alongside the trail in the vicinity of the road to advise hikers of the vehicular use of the road and to post these advisories on their web site as well. It should also be noted that the nature of the proposed mining and haulage-associated activity is such that the vast majority of hauling will occur on weekdays while most of the trail usage is expected to occur on weekends.

The air quality within and adjacent to the proposed permit area is predicted to be impacted to a minor degree during the proposed mining and reclamation operations and diminish after reclamation is complete. As stated above, U.S. Coal has proposed a fugitive dust control plan that is expected to minimize air quality impacts from fugitive dust generated from the proposed permit area. Although previous mining in the vicinity of the proposed site has not caused any known measurable air quality degradation, it is probable that the mining and coal haulage associated increase in vehicular traffic will cause short term (life-of-mine), increases in fugitive dust in the immediate vicinity of the mine site and along the associated haul road and unpaved county road. No one lives along the permitted portion of the haulage route. Approximately 3-5 residential structures are located along the unpaved county road between the permitted haul road and the facility coal will be hauled to for processing. Based on production estimates and coal tonnage hauled per truck, it is estimated that there will be 25 round trips per workday between the mine site and the processing facility. These impacts will be most noticeable

during periods of dry weather and will be mitigated to a degree by the above mentioned fugitive dust control plan. Haulage from nearby U.S. Coal mining operations already impact these residents. If permitted, the proposed mining operation will not increase the level of impact to residents living along the county road as existing mines will cease operations as this proposed mine is developed. The duration of the impacts would be extended for up to five years (life-of-mine).

The proposed mine site and activities associated with coal removal are likely to have little if any esthetic impact on the public, with the exception of the previously discussed esthetic impacts related to coal haulage activities. This is due to the fact that the mine site is approximately 1.5 miles from the closest public road and residential dwelling. There will essentially be no visual impacts associated with the proposed mine site on the occasional user of the county road, users of Interstate 75, or residents of the Caryville community. No blasting will be necessary in developing the planned mine site. Activation of the underground mine will increase background noise levels in the vicinity of the site. As such, noise from the mine site related activities would have little if any impact on the public. However, noise associated with haulage of coal on the county road will have a minor impact on the 3-5 residential structures located along the county road between the permitted haul road and the coal processing facility. Based on the reported work patterns associated with the applicant's mines, the increase in noise levels associated with the coal trucks will only occur during daylight hours and will not occur on Sunday. The increase in noise levels will be limited to the life-of-mine.

In addition to these temporary changes, some permanent or long term changes will occur during the course of the mining and reclamation operation such as: (1) additional alteration of the geologic strata, (2) increased infiltration rates through the backfilled material, and (3) postmining vegetative cover. Proper implementation of the proposed operation and reclamation plan including the hydrologic reclamation plan (HRP) is predicted to prevent or minimize the long-term adverse effects that may occur from the permanent changes.

U.S. Coal, through a process of geologic sampling and overburden analyses, did not identify a potential for the formation of acid or toxic drainage from geologic materials above or below the Pee Wee seam. However, the coal seam was identified as a potential source of acid production. Any material associated with the coal such as coal fines, bedded coal associated with the coal stockpile area, etc., will be removed from the site and disposed of at U.S. coal's permitted preparation plant and refuse area. This disposal would be in accordance with the plans approved for the refuse area.

The HRP is required to specifically address the local hydrologic conditions and contains steps to be taken during mining and reclamation through bond release to: (1) minimize disturbances to the hydrologic balance within the permit and adjacent areas, (2) prevent

material damage outside the permit area, (3) meet applicable Federal and State water quality laws and regulations, and (4) protect the rights of present water users.

During the technical review of the proposed HRP, OSM evaluated the: (1) geochemistry of the overburden and coal mine floor materials in conjunction with the proposed underground mining plan, and (2) movement and quantity of water through the mine voids and spoil materials to determine the resulting water quality of discharges from the disturbed area into the receiving streams.

In summary, the conclusion of the CHIAs are that the water quality of the receiving stream would not be significantly affected by the proposed mining and reclamation operations. Water quality modeling at the identified trend stations for a "worst case" situation predicted no change in the pH of the water at the Montgomery Fork trend station (TS-4) while the pH of the water at the Cove Creek trend station (TS-3) decreased slightly by from 0.1 to 0.2 units depending on flow conditions. At trend station TS-4, dissolved iron is predicted to increase 1 part per billion during all flow conditions while total dissolved solids would increase one part per million during high flow conditions. Manganese concentrations would not change. Sediment levels would increase 0.2 tons/acre/year during mining but after mining would actually decrease to levels 0.1 tons/acre/year less than pre-mining conditions. At trend station TS-3, dissolved iron is predicted to increase 0.068 to 0.069 parts per million during all flow conditions while total dissolved solids would increase from 4 to 6 parts per million depending on flow conditions. Manganese would increase 0.047 parts per million during all flow conditions. Sediment levels would increase 0.4 tons/acre/year during mining but after mining would actually decrease to levels 0.4 tons/acre/year less than pre-mining conditions. It should be noted that the "worst case scenario" utilized to predict sediment (TSS) levels assumes no sediment control / mitigation measures will be used at the proposed site to minimize potential impacts. With sediment control measures utilized, sediment yield increases would be less than those predicted above. The anticipated increases in pollutant concentrations are well within the U.S. EPA water use criteria for identified surface water use classifications. The water quality of the receiving streams, Cove Creek and Montgomery Fork, should remain within acceptable limits for the identified use classifications. Flow analysis indicates that no appreciable difference in stream flow rates is anticipated. As a result, OSM has determined that no significant alteration in stream flow characteristics would result from the proposed activities.

Currently there are no developed ground water sources known to be in use in the vicinity of the mine site. Although no mining-related impacts to local ground water are anticipated, should any impacts occur, they would be localized due to the underlying geologic stratigraphy which tends to isolate ground water in perched, low-yielding water bearing zones both above and below the coal seam to be mined. No impacts to any developed aquifer present in the alluvial valley floor some 1200 – 1400 feet in elevation below the proposed mine site are anticipated. Any ground water users currently obtaining

their water from wells located either in the Cove Creek or Montgomery Fork alluvial valleys will not be adversely affected.

The soil structure and profile of the site as well as the existing vegetation will be eliminated during the proposed mining operation; however, implementation of the proposed topsoil / substitute handling and revegetation plans will ensure that the replaced soil growth medium will support the permanent, diverse, and effective vegetative cover proposed for the reclaimed mine site.

As indicated earlier in this environmental assessment (EA), a significant portion of the population of Campbell County lives in households with incomes below the poverty level. The coalfields in the eastern United States fall largely within the Appalachian region. The Appalachian region, particularly the coalfield portions of this region, is generally a rural, ruggedly, mountainous area often with poorly developed transportation systems. As a result, commercial development such as industries and tourism which would improve employment opportunities and thus income levels, have been quite restricted. Thus the Appalachian region has, when compared to national standards, a disproportionate level of low income areas. In this respect the communities in the vicinity of the proposed permit area are likely typical of much of the rural, Appalachian coalfield communities, low income communities highly dependent on the coal industry for employment. The EA has predicted varying levels of impact, from no impacts to minor impacts, to such resources as aquatic habitats; historic/cultural resources; surface and ground water hydrology; air quality; and esthetics (visual, background noise, and ground vibrations) at residential or public use areas.

Vegetation, soils, and wildlife habitat within the proposed permit area will be adversely affected during the short term. During the life-of-mine, existing vegetation and soils will be removed. Wildlife within and near the permit area will largely be displaced by removal of habitat and noise associated with the mining activities. Mitigation measures such as salvaging and replacing the topsoil substitute growth medium as well as prompt reestablishment of a vegetative cover planned to enhance wildlife have been incorporated into the mine plan. These mitigation measures will serve to limit the duration of impacts to the life-of-mine and final bond release (approximately 10 years) and the extent of impacts to the area of and immediately adjacent to the 70.08 acres of disturbance associated with this proposed permit area.

As previously indicated, this EA has identified impacts to nearby populated areas that will vary from no impact to minor short-term impacts. No reasonably foreseeable cumulative adverse impacts are expected to affect the surrounding communities as indicated, for example, in the cumulative hydrologic impact assessments prepared in association with this proposed permit. Should significant human health or environmental effects have been associated with the proposed issuance of this permit, these effects would likely have been disproportionately high on the low income community in this

area. As only minor impacts are anticipated as a result of the proposed issuance of this permit, the communities in this area should not be significantly affected.

Alternative 2

Disapproval of the operation and reclamation plan and non-issuance of a permit will prevent the temporary and permanent changes and associated environmental impacts from occurring. Disapproval would also result in the loss of employment opportunities associated with this mine site as well as the loss of revenue to the local economy and county tax base.

H. Summary

OSM proposes to issue a permit to U.S. Coal, Inc. to conduct surface coal mining and reclamation operations as approved in the permit application. OSM has determined that the mining and reclamation operation as proposed in the permit application is an environmentally sound plan. Environmental resources likely to be impacted by this operation are described in Section G. Impacts to these resources will be controlled during active mining and will be prevented, minimized, or abated during and following reclamation of the site. A map is enclosed showing the location and boundary of the proposed permit area.

I. Consultations

OSM contact for the proposal:

Beverly Brock, Supervisor
Technical Group
Knoxville Field Office
Office of Surface Mining
530 Gay Street, S. W., Suite 500
Knoxville, Tennessee 37902
Agencies contacted in reference to the proposed action:

All county, State, and Federal agencies having legal jurisdiction, regulatory control, or coordination responsibility concerning permit issuance have been provided an opportunity to submit comments.

U.S. Fish & Wildlife Service
446 Neal Street
Cookeville, Tennessee 38503-0845

U.S. Army Corps of Engineers
P.O. Box 1070
Nashville, Tennessee 37202-1070

USDA, Natural Resources Conservation Service
P. O. Box 120
Jacksboro, Tennessee 37757

Tennessee Wildlife Resources Agency
Region IV
3030 Wildlife Way
Morristown, Tennessee 37814

Division of Natural Heritage
Tennessee Department of Environment and Conservation
401 Church Street
Nashville, Tennessee 37243

Division of Water Pollution Control
Tennessee Department of Environment and Conservation
2700 Middlebrook Pike, Suite 220
Knoxville, Tennessee 37921-5602

Tennessee Historical Commission
Tennessee Department of Environment and Conservation
2941 Lebanon Road
Nashville, Tennessee 37243-0442

Cumberland Trail State Park
125 Village Green Circle
Lake City, Tennessee 37769

TVA Environmental Policy and Planning
400 West Summit Hill Drive, WT8C-K
Knoxville, Tennessee 37902-1499

District Manager
Mine Safety and Health Admin., District 7
HC66, Box 1762
Barbourville, Kentucky 40906

Campbell County Executive
P.O. Box 435
Jacksboro, Tennessee 37757

J. Preparer

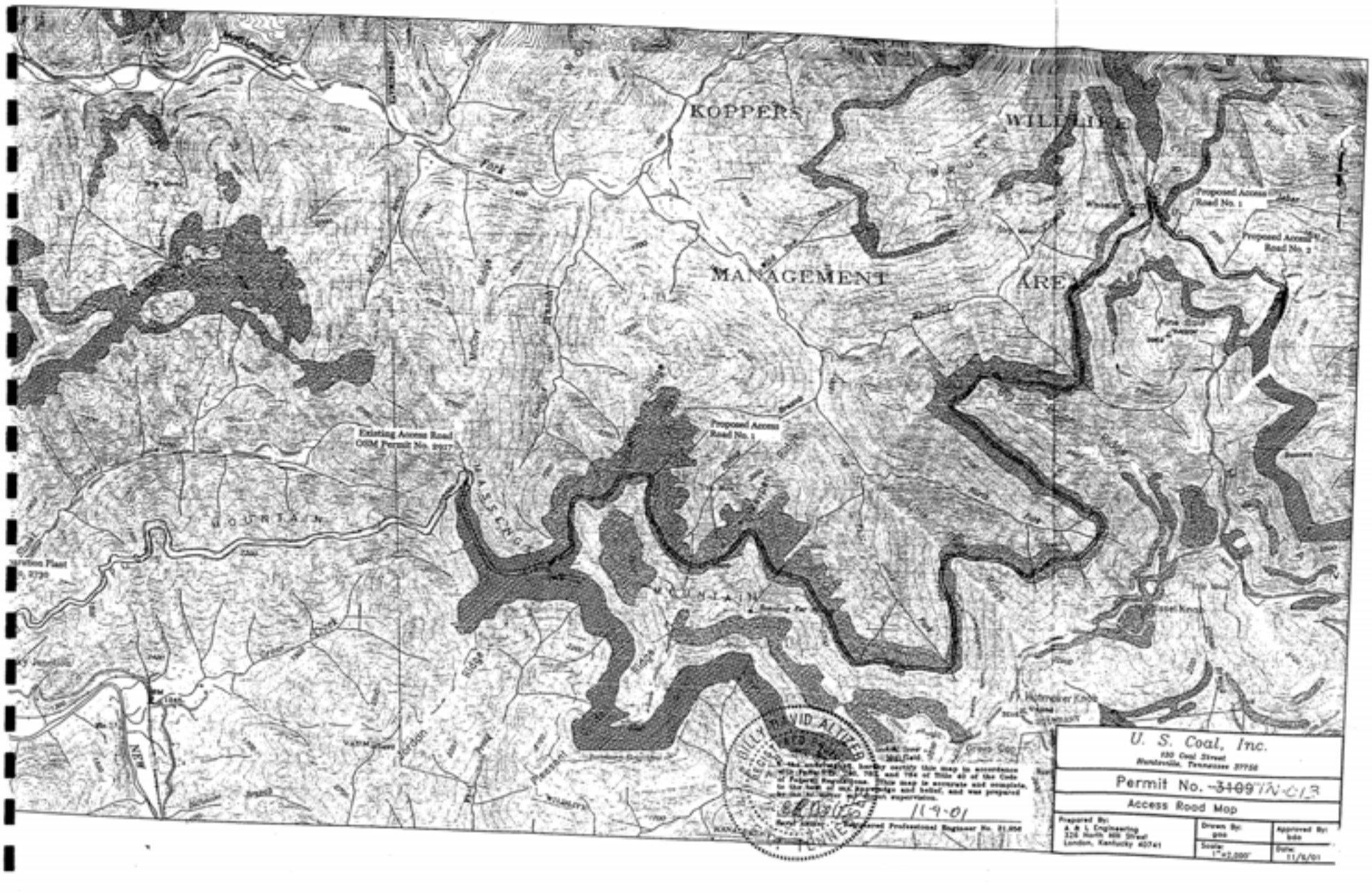
Jeff Coker
Biological Scientist
Technical Group
Knoxville Field Office
530 Gay Street, S.W., Suite 500
Knoxville, Tennessee 37902

K. References

U.S. Coal, Inc., Deep Mine No. 10, Permit Application No. TN-013.

U.S. Department of the Interior, Office of Surface Mining, Cumulative Hydrologic Impact Assessments for U.S. Coal, Inc., Deep Mine No. 10, Permit Application No. TN-013.

U.S. Department of the Interior, Office of Surface Mining, Comprehensive Impacts of Permit Decisions under the Tennessee Federal Program OSM-EIS-18, March 1985.


KOPPERS
WILDLIFE
MANAGEMENT
ARE
Proposed Access Road No. 1
Proposed Access Road No. 2
Existing Access Road OSM Permit No. 9927
Proposed Access Road No. 1
MOUNTAIN
MOUNTAIN
Fire Road
Fire Road
Fork
Fork
Ridge
Ridge
Branch
Branch
Creek
Creek
Hummingbird Knob
Hummingbird Knob
Bear Knob
Bear Knob
Whitaker
Baker
Stanley
Stanley
Hall
Hall
Green Cap
Green Cap
Mountain Top
Mountain Top
Burning Fire Tower
Burning Fire Tower
Wilson Plant
No. 9729
Ky Hwy 66
Ky Hwy 66
Ky Hwy 15
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ATTACHMENT

United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

February 28, 2002

Ms. Mary Angelyn Holmes
Permit Program Specialist
Office of Surface Mining
530 Gay Street, S.W., Suite 500
Knoxville, Tennessee 37902

Attention: Mr. Doug Siddell

Subject: Proposal to conduct underground mining activities with surface disturbance, U.S. Coal, Inc., Deep Mine No. 10, OSM Application No. TN-013, Campbell County, Tennessee.

Dear Ms. Holmes:

U.S. Fish and Wildlife Service personnel have reviewed the description of the subject mine proposal which was included as part of your letter dated January 22, 2002. Please consider the following comments during your review of the mining and reclamation plan.

The Indiana bat may be affected by the mining activity. The proposed mine site is located approximately 9.5 miles from a cave that is used by this species. The potential for impacts to summer roosting habitat should be addressed. Further, the potential for impacts to the species due to disturbance of any abandoned, open mine portals that may exist at the proposed mine site should be evaluated.

The proposal raises concern regarding potential stream impacts. We recommend that all disturbance of earth be excluded from a 100-foot-wide stream buffer zone along all intermittent and perennial streams. Implementation of the buffer zone would substantially aid in the preservation of water quality and stream habitat. We also recommend that no silt control basins be constructed within natural stream channels. Silt should be trapped and stabilized on upland areas before it reaches the stream channels where it would destroy aquatic habitat.

Thank you for the opportunity to review this project description. Please contact David Pelren of my staff at 931/528-6481 (ext. 204) if you have questions regarding our comments.

Sincerely,

Lee A. Barclay, Ph.D.
Field Supervisor

35. Geologic Information - Introduction (Surface and Underground Operations) 780/784.22

A. The geologic description (Item 36), geologic logs, cross sections, and maps (Item 37), and analyses of samples (Item 38) must be based on the geology of the proposed permit and adjacent areas down to and including the deeper of either:

(1) The stratum immediately below the lowest coal seam to be mined; or

(2) Any aquifer below the lowest coal seam to be mined which may be adversely impacted by mining.

B. If determined to be necessary to protect the hydrologic balance, minimize or prevent subsidence, or meet the performance standards, OSM may require the collection, analysis, and description of additional geologic information.

36. Geologic Description 780/784.22(b)(1)

Provide a geologic description that includes:

A. Stratigraphy and lithology;

B. Areal and structural geology, including its relationship to the occurrence, availability, movement, quantity, and quality of surface and ground waters; and

C. Additional information if required by OSM.

Insert the geologic description after this page. **Refer to Attachment 36.**

37. Geologic Logs, Cross Sections, and Maps 780/784.22(b)(1)(i), (2)(i) and (3)(i)

A. Provide geologic logs of test borings and coreholes in the proposed permit and adjacent area which include:

(1) Detailed lithologic characteristics, physical properties, and thickness of each stratum; and
(2) Location of ground water where occurring.

Geologic log information and the occurrence of ground water may be shown on the optional "Geologic Log of Drill Hole" form after this page.

See Attachment 37.

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

March 26, 2002

Mr. George Adams
A & L Surveying and Engineering
460 North McWhorter Street
London, Kentucky 40741

RE: OSM, U.S. COAL/36-18-40/84-15-40, UNINCORPORATED, CAMPBELL COUNTY

Dear Mr. Adams:

The Tennessee State Historic Preservation Office has reviewed the above-referenced undertaking received on Wednesday, March 20, 2002 for compliance by the participating federal agency or applicant for federal assistance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of compliance with Section 106 to the appropriate federal agency, which, in turn, should contact this office as required by 36 CFR 800. If you represent a federal agency, you should submit a formal determination of eligibility and effect to this office for comment. You may direct questions or comments to Jennifer M. Bartlett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

RECEIVED APR 0 2 2002.

HLH/jmb

TENNESSEE WILDLIFE RESOURCES AGENCY

Royal Blue Wildlife Management Area
609 Titus Hollow Road
Pioneer, TN. 37847

423-566-8557

April 18. 2002

A& L Surveying & Engineering, LLC
460 North McWhorter Street
London. Kentucky 40741

Subject: Proposed Project area
U.S. Coal. Inc.; Deep Mine No. 10
Surface coal Mining & Reclamation Operation
Campbell CO., TN.

Dear Mr. Adams

I have received the plans for the proposed coal mining & reclamation operation (Deep Mine No. 10). which will be located on Royal Blue W.M.A. I found one error in the first sentence of the last paragraph under Attachment b1. The statement concerning no state land use plan is incorrect. I have a copy of the land use plan of the Royal Blue W.M.A. for U.S. coal in my office. I think the re-vegetation plan is adequate. I would like the retention pond and all roads used left permanent after the mine is closed. Roads at that time should be graveled and have water diversion devices installed. Water diversion structures may be water bars, low base dips, and /or culverts. A sufficient number must be installed to prevent erosion and deterioration of the road. This includes all roads used for hauling coal. bringing in equipment, and transportation of employees.

TWRA has experienced some problems in the past with the power line right-of ways. Illegal use by Off Highway Vehicles may cause some damage to vegetation and streams. This illegal use can result from access roads constructed by U. S. coal to the power line right –of way for construction and or maintenance. Any access to the power line right-of-way will need to be closed.

The Royal blue W.M.A. is a public use area receiving thousands of visitors throughout the year. The mine site will need to be isolated from the public. The two strip benches will need to be blocked with nearby rock and stone on the south end 300 to 400 yards from the mine site. I will be available for anyone needing help to locate a sight, which is suitable for construction of a barrier.

Please contact me at the address if you have any questions.

Sincerely

Stan Stooksbury

From: Jeff Coker
To: KTNGW:"david_pelren@fws.gov"
Date: Wed, May 15, 2002 11:09 AM
Subject: Coal Permit Application for U.S. Coal TN-013

Hello Dave,
First, I apologize for being so slow to respond to your 2/28/02 letter to us concerning the above application. We are continuing to process the application. The application review has progressed to the point that I would like to respond to the comments from your February correspondence.

Your letter identified comments / concerns specific to:
1) the Indiana bat
   (a) potential impacts to summer roosting habitat
   (b) potential impacts to open mine portals that may exist at proposed site
2) potential stream impacts
   (a) you recommended observing 100 ft. stream buffer zones, and
   (b) you recommended no sediment control structures be placed in natural stream channels

First I would like to describe the nature of the proposed disturbance under this application. This is an underground mine and haul road permit. The mine site proper will disturb slightly over 2 acres while the road disturbances are just under 70 acres. The entire proposed permit application area utilizes previously disturbed areas. The proposed mine site proper was "contour" mined in the late 1960's / early 1970's. The road has been in existence and used by a number of permitted sites throughout the 60's and 70's.

As for potential impacts to bats, your comments go to the issue of habitat impacts either to 1) trees of a size and / or species (exfoliating bark species) which could provide summer roosting habitat, and 2) the potential presence of open mine portals which could conceivably provide year round habitat to bat species. First, our field visit to the site revealed that no open portals were present on the site and as essentially no explosives will be used in site development, there is little likelihood that any underground mines which may be in this general area will be adversely impacted by blasting. As for the issue of trees as summer roosting habitat, observations during the site visit revealed that due to the previous disturbance of the site, trees on this area are estimated to be in the 3 to 6 inch DBH range and generally consist of species that either don't exhibit exfoliating bark characteristics or don't exhibit them until the trees grow to significantly larger size than those currently present on this site. As for the haul road, as it is an existing road, little or no clearing of trees is anticipated in association with the use of this road. A "typical" photo of the proposed mine bench is attached for your viewing to better show what I have attempted to describe above (you may have to "zoom in" as you view the photo to get the clarity you need to really see the trees that would be affected by the mine site development work).

Due to the extremely limited size of disturbance associated with this proposed site, the fact that the area was previously disturbed and essentially does not contain trees of a size and/or species typically associated with summer roosting habitat, and the absence of open mine portals in the proposed permit area, I would submit that this site would be unlikely to affect habitat of the Indiana bat and is not likely to affect the continued existence of the species.

As for the comments and recommendations relevant to stream impacts, no silt control basins are to be constructed in natural stream channels and the applicant is observing a 100 ft. stream buffer zone associated with the mine site proper. However, the existing road which is proposed to be used crosses streams (waters of the State) at a number of locations. The State is of course processing an ARAP application for these crossings. OSM is also requiring that sumps or other comparable sediment control measures be utilized and maintained for all intermittent and perennial stream crossings. Of course these sediment control measures will be placed in the ditch lines and not in the stream proper. Furthermore, as the road is proposed to be permanent, OSM requires that culverts at these stream crossings have culverts installed which meet the 100 yr. / 6 hr. storm event.

I hope this response satisfactorily addresses your comments and concerns. If not, please call me at your earliest convenience. Also, if e-mail correspondence with you on this type issue is unacceptable, I will be happy to commit this correspondence to letterhead. Take care and I hope to hear from you soon.

CC: Siddell, Doug

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
530 Gay St., S.W., Suite 500
Knoxville, TN. 37902

JUN 3 2002

CERTIFIED MAIL
7000 1670 0008 9882 5661

Harold Draper, NEPA Administrator
Tennessee Valley Authority
400 West Summit Hill Drive, WT8C-K
Knoxville, Tennessee 37902-1499

Dear Mr. Draper:

In accordance with the Code of Federal Regulations (CFR), 30 CFR, 942.761.11(f), surface coal mining operations cannot occur within 300 feet of a public park unless "valid existing rights" can be established under 942.761.16. U.S. Coal, Inc., is proposing to conduct surface coal mining operations (transporting of coal) within 300 feet of Cumberland Trail State Park. As such, U.S. Coal has requested the Office of Surface Mining (OSM) make a valid existing rights determination.

In accordance with 942.761.16(d)(2), OSM is required to send you a copy of the public notice (see enclosure) and to inform you that: (1) a 30-day comment period is provided beginning on the date of service of this letter, and (2) an additional 30-day comment period is available if the request is received at OSM prior to the expiration of the initial 30-day comment period.

The enclosed notice should answer any questions you may have. If not, please feel free to call Jeff Coker of my staff at (865) 545-4103, ext. 155.

Sincerely,

M. Susanne Fouts
for

Beverly Brock, Supervisor
Technical Group

Enclosure

PUBLIC NOTICE
REQUEST FOR DETERMINATION OF VALID EXISTING RIGHTS

U.S. Coal, Inc., 130 Coal Street, Huntsville, Tennessee 37756, has submitted to the Office of Surface Mining (OSM) a request for determination of valid existing rights (VER) in reference to the proposed use of an existing road that crosses Cumberland Trail State Park. The road section is located in Campbell County on the west side of Cross Mountain 3.5 miles west of Caryville, Tennessee (36°18'10" N. and 84°17'16" W.). U.S. Coal, Inc., proposes to haul coal on this existing road but in order to do so, must establish VER in accordance with 30 CFR 942.761.16. To establish VER, U.S. Coal, Inc., must show that the road existed at the time the park was established and that the company has a legal right to use the road for mining operations. U.S. Coal, Inc., bases its claim on: (1) the fact that the road existed prior to the State acquiring the land and subsequently establishing and constructing this section of the park and (2) the right to use this road for coal operations is established under the Tennessee Valley Authority's warranty deed for coal mining rights and the subsequent lease to U.S. Coal, Inc.

This VER request is available for public review during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, at the OSM, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902. The public comment period will begin the date of publication of this notice and will run for 30 days. Comments may be sent to OSM at the above address. Interested parties may obtain a 30-day extension of the comment period if the written request is received by OSM during the initial comment period. In making comments, please refer to U.S. Coal, Inc., VER determination for application TN-013.

OSM will make the determination of VER after reviewing all materials submitted by the applicant, comments received, and any other relevant and reasonably available information. Notice of the VER determination will be published for public review and records of the determination will be maintained in OSM's Knoxville Field Office. If, by the close of the comment period, a person with legal interest in the land initiates appropriate legal action in the proper venue to resolve differences concerning the validity or interpretation of the deed, lease, easement, or other documents that form the basis of the claim, OSM will not make a decision on the merits of the VER request if notified of such legal action prior to making the VER determination.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

June 7, 2002

Mr. Jeff Coker
Office of Surface Mining
530 Gay Street, S.W., Suite 500
Knoxville, Tennessee 37902

Subject: U.S. Coal, Inc., Deep Mine No. 10, OSM Application No. TN-013, Campbell County, Tennessee.

Dear Mr. Coker:

Fish and Wildlife Service personnel have reviewed your description of existing habitat conditions at the subject site, which you sent by electronic mail on May 15, 2002. Your description was very helpful in evaluating the potential for impacts to the Indiana bat. We agree with your conclusion that the mining operation as proposed is not likely to adversely affect this species. Therefore, consultation is considered completed at this time. Please notify us of any proposed revisions of the mining and reclamation plan or of any new habitat information that would reveal a potential for impacts to the Indiana bat.

Thank you for your coordination on the subject proposal. Please contact David Pelren of my staff at 931/528-6481 (ext. 204) if you have questions regarding our comments.

Sincerely,

Lee A. Barclay, Ph.D.
Field Supervisor

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
530 Gay St., S.W., Suite 500
Knoxville, TN. 37902

JUL - 8 2002

Certified Mail
7000 1670 0008 9882 6071

Harold Draper, NEPA Administrator
Tennessee Valley Authority
400 West Summit Hill Drive, WT8C-K
Knoxville, Tennessee 37902-1499

Dear Mr. Draper:

In a letter dated June 3, 2002, the Office of Surface Mining (OSM) notified you that U.S. Coal, Inc., was proposing to conduct surface coal mining operations (transporting of coal) within 300 feet of the Cumberland Trail State Park. As such, U.S. Coal, Inc., requested that OSM make a determination as to whether the company has "valid existing rights" (VER), a necessary step in order to conduct the proposed activities within 300 feet of a public park.

In accordance with 30 CFR Section 942.761.16, OSM has reviewed the available information, including comments received during the 30-day comment period, and has determined that U.S. Coal, Inc., has demonstrated VER in the above matter. Enclosed is a copy of OSM's VER determination.

This decision may be appealed within 30 days of receipt of this notification, pursuant to 30 CFR Section 942.775.11, by contacting the U. S. Department of the Interior, Office of Hearings and Appeals (OHA), 801 North Quincy Street, MS 300-QC, Arlington, Virginia 22203. In accordance with 30 CFR 942.775.13, you may also appeal the decision of the OHA.

If you have any questions regarding this letter, please contact Jeff Coker of my staff at (865) 545-4103, ext. 155.

Sincerely,

Beverly Brock

Beverly Brock, Supervisor
Technical Group

Enclosure

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
DETERMINATION OF VALID EXISTING RIGHTS
for
U.S. Coal, Inc.

On May 28, 2002, U.S. Coal, Inc., 130 Coal Street, Huntsville, Tennessee 37756, submitted to the Office of Surface Mining (OSM) a request for determination of valid existing rights (VER) in reference to the proposed use of an existing road that crosses Cumberland Trail State Park. The road section is located in Campbell County on the west side of Cross Mountain, 3.5 miles west of Caryville, Tennessee (36°18'10" N. and 84°17'16" W.). U.S. Coal, Inc., proposed to haul coal on this existing road but in order to do so, had to establish VER in accordance with 30 CFR 942.761.16. To establish VER, U.S. Coal, Inc., had to show that the road existed at the time the park was established and that the company has a legal right to use the road for mining operations. After reviewing the available information, including any comments submitted during the public comment period, OSM finds that U.S. Coal, Inc., has demonstrated VER in the above matter. OSM bases its finding on the fact that the available information shows (1) the road existed prior to the State acquiring the land and, subsequently, establishing and constructing this section of the park, and (2) the right to use this road for coal operations was established under the Tennessee Valley Authority's warranty deed for coal mining rights and the subsequent lease to U.S. Coal, Inc.. No comments were received during the public comment period objecting to U.S. Coal's claim of VER.

The VER determination and associated records are available for public review at OSM's Knoxville Field Office. Copies of the determination can be obtained from Beverly Brock, Supervisor, Technical Group, Office of Surface Mining, 530 Gay Street, SW, Suite 500, Knoxville, Tennessee 37902, telephone (865) 545-4103, ext. 146.